THE

MADRAS REVENUE REGISTER.

No. 11.] MADRAS :—TUESDAY, NOVEMBER 15, 1870. [Vol. IV.

THE QUIT-RENT SYSTEM OF THE TOWN OF MADRAS.

We should like to know how many of the well-informed denizens of this well-informed city are aware on what system, or rather want of system, the quit-rent of the town of Madras is levied. Our attention has been seriously drawn to this question by being told of the unhappy fate which overtook the officer who was immediately in charge of the Quit-rent Department, who fell a victim —not to his want of capacity to control— not to his love of greed, or other moral turpitude—but simply to the curse of *mamool*, to the bondage of a sort of shopman arrangement, which appears to have been handed down from one official to another, since the township of Madras passed from the hands of the Nawabs of the Carnatic to the first merchant factors and agents, who settled themselves here as the representatives of the East India Trading Company. It was in vain he protested against the system, as not calculated to afford that check which alone would be sufficient to safeguard the public monies collected from day to day by the actual tax-gatherers. He asserted, and with truth, that the onerous duties more immediately connected with his responsible position, in a city comprising a large European population, were too many and too engrossing to permit of his individually going over each item of money realized and remaining to be accounted for. His protest was unheeded, and a system, which was good enough for our grandfathers, was allowed to linger on even in the days when we—the grandchildren—have attained the full strength of our manhood, and are able to grapple with new systems for ourselves. At last, a very serious defalcation was discovered by this very officer himself, for which he was rewarded by the immaculate Board of Revenue with ignominious dismissal from the public service, an unhappy fate from which he has been partially rescued by the more thoughtful members of Government, who, on a consideration of the merits of his case, have restored him to the service, but in another, less responsible, and less paid appointment. The land revenue of the town and environs of the city, constituting the present Collectorate of Madras, appears to have been collected, and is still collected, by a polite invitation to landholders to pay their rents, this invitation being sent out in the shape of a bill—Dr. so and so, Cr. so and so—placed in the hands of an ordinary bill collector, who dances attendance on each debtor from day to day according to the extent of the latter's amiability and his exact measure of personal convenience. The collections are paid into the cutcherry treasury by the several bill collectors, who

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merely hand in a memorandum of the amount realized and the number of bills remaining in their hands unrealized. All that the overburdened officer in charge of the Quit-rent Department could do was to note, in a sort of slipshod manner, the amount collected by each bill collector, and the number of bills remaining uncollected that day in his hands. When it is borne in mind that these bills represent petty fractional sums ranging from a few annas upwards, it may be easily conceived that it must require a very strong staff of accountants to apply the proper checks and to guard against embezzlement. As it happened, there were about half a dozen bill collectors on very small salaries under the orders of a goomastah, or clerk, very little better paid than themselves. As a staff of this kind could not check itself, and the head of the department could do no more than perfunctorily ascertain the number of bills in each man's hands, without inquiring into the particulars of each bill, it follows that a very enormous amount of temptation was placed in the hands of these men. Considering their social position and the temptation to which they were thus exposed, they would have been more than human if they did not largely avail themselves of the opportunities thrown in their way; and, to escape what little danger of detection the system of the cutcherry interposed, they borrowed from one another the requisite number of bills for which each man was accountable. Years of embezzlement and peculation must have gone on before the day of reckoning arrived. By a turn of good luck, as far as the Government was concerned, the head of the Quit-rent Department pounced down upon his myrmidons, detected them in their system of plunder, and, in bringing them to justice for their misdeeds, worked himself out of his own appointment and prospects. The evil of all this was to be traced to the inherent defect in the system itself. Why should the Government issue bills for the collection of its revenue? Is it a tradesman dunning its customers? Is there any rule compelling the officers of the State within the municipal limits of the town of Madras, any more than in any other part of the Presidency, to present bills for the purpose of collecting the land revenue due for each year? We know of no such rule, and we can only conjecture that the system had its rise from the circumstance that when Madras was built the merchant grantees were not in the position of a Government feeling itself entitled to call upon its lieges to come in and pay their taxes under certain pains and penalties. With the instincts of commercial men they issued bills to settlers within their limits for the quit-rent leviable on the land taken up and occupied. It might be, too, that many European gentlemen of rank and influence took up land in the infant settlement; they could not be peremptorily called on to pay in their taxes like ordinary ryots in a ryotwari district; and so a polite system of presenting bills all round obtained. The collectors of land revenue in the town of Madras are thus in exactly the same position as the bill collectors of any large or petty shop in Popham's Broadway or on the Mount Road. They actually dance attendance on the State's debtors with their receipted bills in their hands, and are in many instances turned from the door with the questionably polite message of "Come another day." Sometimes it is John Brown gathering up facts for his next report—"Oh I am too busy," he says, "let the quit-rent man call another day." At another time the dismissal is rather sharp work, for General Bounce is not quite in a convenient humour, and he sets his bull dog on the messenger of Government, who betakes himself to his heels with an alacrity scarce befitting his dignity as a respon-

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sible officer of the State. Independently of the facilities to embezzlement that collection of the quit-rent by bill collectors amply affords, the undignified attitude the State assumes in sending out its officers in the shape of petty retail bill collectors, who are turned from the debtor's door and told to call another day, or are exposed to other still greater annoyances, is of itself sufficiently grave to put an end to the system at once. The quit-rent of the Collectorate of Madras is absolutely the land revenue of the town and its environs, and should be collected into the Government Treasury in the same manner that the rent of the ryot is got in all over the Presidency; in other words, landholders in Madras should be called upon to send in or pay their rents into the cutcherry and take their receipts for the same. Not only will this simple and effective system put an end to embezzlement; but it will ensure a speedier realization of the Government revenue, and enable its officers to turn their attention to more important work than watching and checking peccant bill collectors. We have no doubt that the present able Deputy Collector, immediately in charge of the Collectorate of Madras, will prominently bring the matter to the notice of the authorities; and it is to be hoped that those charged with the protection of the public revenues will not be slow to accept and act upon his advice. They can have no hesitation in doing so, because Act VI of 1867 has been expressly enacted to secure the land revenue of Madras, by providing for its collection in as summary a manner as in other parts of the Presidency; it being declared that the land revenue has priority over all claims upon the land; that the land itself is the security for the revenue assessed thereon; and that it is liable to be sold for the discharge of arrears. We would propose that, in the spirit of this enactment, a Notification should be published, giving sufficient time however, announcing that the existing practice of presenting bills for quit-rent due by landholders is to cease from a certain date, and that in lieu thereof landholders will have to send in their rents before the close of the fusly, or Revenue year, for which they are due, on pain of being proceeded against under the provisions of Act VI of 1867. Opportunity should also be taken to warn defaulters that arrears will bear interest at six per cent, and that they will be saddled with all charges of collection.

While efficient means such as these appear to us to be proper for realizing the public revenue, consistently with the dignity of the State and its officers and the safety of the revenue itself, we are emphatically opposed to the principle on which the quit-rent is assessed; and it is here that the general ignorance of the citizens as to the nature of the tax which they are called upon to pay is most striking. We believe that we are safe in asserting that not ten of the rate-payers of the town of Madras know that, in paying quit-rent to the Government, they are not paying a tax on the land occupied by them, but are actually contributing a species of income tax calculated on the value, not of the land, but of the building upon the land. It is true that this objectionable assessment prevails in the town of Madras only, and not in the suburbs; but why should landholders within the town be more heavily taxed than anywhere else? The practice now is to value the building and ground, probably with the view of ascertaining what rental the premises are producing, or are capable of producing, and then levy quit-rent accordingly. Thus the quit-rent departs from its character of quit-rent, and assumes the nature of a real income tax, namely, an impost upon profits. Is it not most unjust on the part of Government to levy a tax on the footing of rent for the bare ground taken up, and, under cover of

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it, to call upon the holder to pay a percentage of his profits? And this species of income tax is paid three times by the unhappy landholder in Madras upon the self-same income—once to the Government in the shape of Imperial income tax; once to the Municipality in the shape of assessment; and once again to the Government under the guise of a quit-rent. Upon what principle can this system, or want of system, be defended? It may be worthy of a Mahomedan Government, but is certainly not consistent with the character of English rule, where, at all events, we expect equality of action, even if the burdens are heavy, in consequence of the pressure of the times. This unjust collection must at once be abandoned. There is no other law to support it but the too long inexorable, but happily now efféte, excuse of established custom. There are other inequalities in the land-tax of Madras which require attention: for instance, we cannot see why one piece of land in the suburbs of Madras should pay quit-rent according to a particular scale, while the very neighbouring plot is assessed on quite another standard. We feel that these subjects of amendment will not escape the sharp eyes of the present Deputy Collector; but they need to be mentioned, not only to stir up the energies of even an active minded officer, but to gain for him the support of those in authority who have to pronounce upon his proposals.

CORRESPONDENCE.

To the Editor of the Madras Revenue Register.

Dear Sir,

With reference to the letter of the Purghy Advocate, which appeared in your last issue, I do not think that there should be any shadow of doubt on the question raised by him, as the law on the subject is very clear. It is distinctly laid down in Act No. II of 1864 that all lands brought to sale on account of arrears of revenue shall be sold free of all incumbrances. All other sales of property, of whatever kind, in execution of a decree or other process of Court, are strictly in the nature of private transfers; they are not in the nature of public sales for *revenue*. *They* convey to the purchaser nothing beyond that which belonged, up to the moment of sale, to the person whose interests are sold, and *they* confer no right or privilege which was not *vested* in that person. They give no warranty of title, and they only place the purchaser in the same position, with respect to the thing sold, in which they found the defendant.

I am, Sir,
Your obedient servant,
A. Pleader.

Narraindaverkerry,
Bellary District,
20*th October* 1870.

To the Editor of the Madras Revenue Register.

Dear Sir,

Adverting to the letter of your Tinnevelly *Inquirer* which appeared in your last issue, I beg to observe that the rule for construing new laws, differing wholly or partially from former laws, is so subtle as to require great attention. If any Legislative Act should be enacted differing from a former Regulation, either wholly or partially, the new Act is to be considered as a virtual repeal of the old one, as far as it may differ from the latter, provided the new Act be couched in the negative terms, or by its matter necessarily imply a negative; I consequently think the valuation of the lands in question must be governed by Note (*a*), Article 11, Schedule B, Act XXVI of 1867, that is, eight times the revenue due thereon to Government, the revenue payable thereon being unsettled or temporary. This opinion renders an answer to the second question unnecessary. As to the third question, namely, what is the force and legal meaning of the phrase, "Unless, and until, the contrary shall be proved," in the note (*a*) in Schedule B, Act XXVI of 1867, I take the meaning of it to be simply this—in suits under Act XXVI of 1867, for immoveable property paying revenue to Government where the settlement is temporary, eight times the revenue so payable, and, where the settlement is permanent, ten times the revenue so payable; and, in a suit for immoveable property not paying revenue to Government, twenty times the annual net profits of such property shall be taken to be the market value, unless the contrary be proved by any party to the suit, or by the investigation made by the Court of its own motion. In such cases the Court is either to refund the excess stamp duty paid, or require plaintiff to pay so much additional in stamps as would have been payable

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had the said market value or net profits been correctly estimated. In order to ascertain the market value, or correct amount of the Government revenue, or the annual net profits of any such property as is described in note (*a*) under that Act, the Court could either, of its own motion, or on the application of any party to the suit, issue a commission to any proper person directing him to make such local or other investigation as may be necessary and report thereon to the Court. If, in the result of any such investigation, the Court should find that the market value or net profits had been erroneously estimated for the purpose of computing the stamp duty, the Court should either (as the case may be) refund the excess paid as such duty, or require the plaintiff to pay so much additional stamp duty as would have been payable had the said market value or net profits been correctly estimated, and, in such a case, the suit should be stayed until the additional duty be paid. The intention of the legislature is to be gathered from a consideration of the whole statute. As Lord Coke expresses it, "No one can rightly understand a part until he has again and again read through the whole." The maxim of the law *ex antecedentibus et consequentibus fit optima interpretatio*, may as well be consulted. I cannot conceive how the phrase can convey the meaning put on it by the defendant, for the express mention of one thing implies the exclusion of another. With reference to the fourth question, I must say there is no clear provision as to how the Court should act; but, nevertheless, I think the insufficient stamp duties payable in suits filed, when Act XXVI of 1867 was in force, should be levied according to the provisions of the new Court Fees' Act, under the authority vested in the Court by Section 12. I am decidedly of opinion that they could not be levied under Act XXVI of 1867, as it had been repealed when the suits came on for hearing and valuation was disputed. In such cases, Clause 1, Section 12, of the Court Fees' Act can be brought into play. It provides that every question relating to valuation for the purpose of determining the amount of any fee, chargeable under Chapter III, on a plaint or memorandum of appeal, shall be decided by the Court in which such plaint or memorandum, as the case may be, is filed, and such decision shall be final as between the parties to the suit. Now as to the last and fifth question. I understand from the statement of *Inquirer* that the suit was instituted to recover possession of fifty palmyra trees paying to Government annually Rupees 40. Immoveable property includes land and things attached to the earth, or permanently fastened to anything which is attached to the earth. So palmyra trees are immoveable property paying revenue to Government; and, therefore, they should be valued under the provisions of Clause 5, Section 7 of the Court Fees' Act, for the law always intends what is agreeable to reason. A question may arise whether the trees, together with the land on which they stand, could not be taken to be a garden and valued accordingly. I emphatically say no, because garden means a piece of ground appropriated to the cultivation of herbs or plants, fruits and flowers, and nothing more.

I am, Sir,

Your obedient servant,

AN ADVOCATE.

NARRAINDAVERKERRY,
BELLARY DISTRICT,
20*th October* 1870.

It is a question whether, under the new Act, Courts are likely to refund excess duty paid in.—ED. *R. R.*

HIGH COURT—MADRAS.

SCOTLAND, C. J., AND INNES, J.

Right to water—User—Evidence of tenants as against interest of landlords.

A sued B for damages for loss of crop in consequence of B's obstructing a channel supplying A's tank. B denied the existence of a channel, but admitted a mere boundary ridge, the repairing of a breach in which would flood his land—

HELD *that A's evidence was not sufficient to establish long user, inasmuch as the only reliable evidence on his side was that given by the tenants of the defendant in a former suit, which evidence, containing admissions affecting their landlord's rights, could not be used against him.*

R. A. 92 *of* 1869.

V. Venkatanarayana Reddy *v.* C. Vencata Reddy and nine others.

THE plaintiff in this case claimed the estimated cost of restoring the channels and the value of the produce he alleged he had lost, as his tank had not received its ordinary supply of water in consequence of the defendants having breached one channel and obliterated another. The damages were laid at Rupees 1,584. The plaint set forth that the tank was what was termed in the Revenue Department "a ruined tank," and, therefore, liable to be given to any ryot who *durkasted* for it at the dry rate of the ayacut under it. The plaintiff offered to take it, and was granted it by the Collector in 1853, ever since which it has been his property. At the time plaintiff received it, there was a channel which fed it; but defendants cut it on the 1st October 1860, in order to force him to

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give up the ayacut under the tank, so that defendants might get possession of it themselves. On hearing what had been done, plaintiff complained to the local Sub-Magistrate, when an inquiry was made, and defendants admitted that they had breached the bund of the channel to preserve their lands in the vicinity from being inundated; notwithstanding this inquiry, and the admission of the defendants, plaintiff got no redress, and, owing to the breach in the bund, the water which ought to feed his tank passed into the river Mudigondi, and, plaintiff's tank not receiving its usual supply of water, he incurred a serious loss. The defendants pleaded that plaintiff's claim for loss of produce from Fusly 1270 to 1276 not having been made within a year from the date of the respective losses, was barred under Clause 2, Section 1, Act XIV of 1859. They also contended that plaintiff's complaint to the Sub-Magistrate in 1860 was met by them by petition to the Joint Magistrate; that the Joint Magistrate directed the Ongole Sub-Magistrate to take care that the channel, the subject of plaintiff's complaint, did not damage the *Addunkivari* maniyem by flooding it; that the Sub-Magistrate inspected the spot, and reported that the channel did not feed plaintiff's tank; also that when, in January 1864, plaintiff complained about defendants ploughing up their other channel, the punchayet appointed to investigate the matter came to the conclusion that there never had been channels on the two spots, and that, if a gap in the ridge of earth, which plaintiff designated as the bund of a channel, were filled up and the continuity of the ridge restored, the *Addunkivari* field would be flooded by the accumulation of drainage behind the ridge. The ridge, defendants asserted, was a mere boundary between the *Addunkivari* and the neighbouring maniyems; and, the Tahsildar agreeing in this view, a report was made to the Sub-Collector, who issued an order dismissing plaintiff's complaint. Hence the defendants contended, in point of fact, the two channels spoken of by plaintiff never had any existence, and, as he had never sustained any loss by the acts of defendants, the plaintiff had no ground of action. Mr. Cockerell, the Civil Judge, (before the case came in appeal), on consideration of the evidence, dismissed plaintiff's suit, inasmuch as it was to be expected from the wording of the rules, under which the tank was taken up by the plaintiff, that the tank was dependent on the rainfall; that there being no channels mentioned in the public accounts in connection with the tank tallied with the inference suggested by the rules; that, if there had been regular supply-channels, the fact would have been clear when plaintiff first complained against defendants in 1860, or, at all events, would not have been concealed from the punchayet when that body inquired into the matter in 1864; and it would not have failed to be recognized by the Revenue Settlement Department when the demarcation and settlement of the locality was made. The Civil Judge was further of opinion that the balance of evidence in the suit seemed to show the alleged breached bund on the *Addunkivari* maniyem was not a bund, but a mere boundary ridge separating the *Addunkivari* from the neighbouring maniyem; that the so-called Sircar accounts produced by plaintiff had no mark of authenticity about them; that the motive for the suit was the long standing and admitted animosity between plaintiff and defendants 8 and 9, the persons against whom the suit was directed, though they were not at first included. On all these grounds Mr. Cockerell considered that the plaintiff's tank was a mere natural depression in the face of the country, ridged in by a bund to collect the drainage flowing from the neighbouring land into the depression, and that there were not, and never had been, supplying channels to it. From this decision the plaintiff appealed to the High Court. Rungiah Naidu for appellants; Parthasarathy Iyengar for respondents.

The High Court delivered the following

Judgment:—1*st April* 1870.

We are of opinion that no ground has been shown for interfering with the decree of the Court below. In order to succeed, it was necessary for the plaintiff to establish the existence of well-defined channels and a user of the water flowing through such channels to the tank for a long period of time, and it appears to us that the evidence is insufficient to prove either point. The only oral evidence on which any safe reliance could have been placed are the admissions in the deposition made in a former proceeding by some of the defendants, who are tenants of the adjoining lands, and the father of the first defendant; but the claim in the suit affects the proprietary interest of the ninth and tenth defendants in the adjoining lands, and the admission of their tenants are not evidence against them. As respects the testimony of the witnesses who spoke to the long existence of the channels, we think it is more than outweighed by the evidence of the witnesses who formed the punchayet deputed by the Tahsildar to examine the spot and report as to the existence of the alleged channels and the breach of the embankment. There is every reason to credit their statements, and they distinctly negative the case of the plaintiff. The absence of any mention in the public accounts of the existence of the alleged supply-channels to the south is confirmatory of these statements, and the accounts produced with reference to the other channel cannot certainly be used for the purpose of throwing discredit upon their testimony. Upon the whole, we think the right conclusion has been come to, and the decree appealed from must, therefore, be affirmed with costs.

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Scotland, C. J., and Kindersley, J.

Carnatic property—Act XXX of 1858—*Kudivarum right.*

A purchased certain land from the Receiver of the property belonging to the late Nawab of the Carnatic at an outright sale; but, on entering into possession and attempting to cultivate, he was opposed by X, Y, and Z, who claimed the kudivarum right of the soil, and contended that all that A was entitled to was to receive the mêlvarum—

Held *that, under Act XXX of* 1858, *the Receiver had duly sold to A the interest that the Nawab had in the property; but that, from what appeared in evidence, the right and title sold to A was subject to some continuing right of tenancy in the defendant, and that, therefore, A could not eject them.*

R. A. 128 *of* 1869.

Balu Moodelly *v.* Ramasawmy Kothan and eight others.

This action was brought for the recovery of certain nunjah land in the village of Thiruthandoni, valued at Rupees 5,090, also for the sum of Rupees 310, alleged to have been spent in the cultivation of these lands together with subsequent mesne profits. It appeared that these lands were formerly the property of His Highness the Nawab of the Carnatic; that, in November 1866, they were sold by Mr. James Richardson, as the agent of the Receiver of the Carnatic property (appointed under Act XXX of 1858), to Ghulam Sherif Sahib for Rupees 5,000; that in December Ghulam Sherif was put into possession of the property by Khan Sahib, the Nawab's agent, and was duly furnished with a sale certificate signed by the Receiver; that the sale certificate comprised lot No. 4 of the Carnatic property, and that all the rights and interests held therein were, by the said certificate, conveyed to Ghulam Sherif. In May 1867 plaintiff purchased this property from Ghulam Sherif Sahib for the same sum under a registered deed of sale, and had entered into possession; he cultivated some portion of the land, but was prevented by the defendants from cultivating the remainder. The defendants complained to the Head Assistant Magistrate, who referred plaintiff to a civil action; hence this suit for the recovery of the lands. Defendants answered that all the interest either the Nawab or Ghulam Sherif had in the lands was that of *mêlvarumdar;* that the defendants were the proprietors of the *kudivarum* right, and had power to sell or transfer the same; that plaintiff's claim was barred by the Statute of Limitations; that they, defendants, were protected by Act XXX of 1858 and by paragraph 5 of the rules of sale published by the Receiver. Mr. Cadell, the Civil Judge of Trichinopoly, was of opinion that the point at issue was simply whether the possession of the lands was sold outright by the Receiver of the Carnatic property, and, again, to the plaintiff; or whether, what was sold by the Receiver, was merely the right to the mêlvarum, or landlord's share, on the lands. Under Section 6, Act XXX of 1858, it was clearly laid down that the Receiver was fully empowered to sell the lands belonging to the estate of the late Nawab, and to execute a conveyance thereof to the purchaser of the property. From the sale notices it appeared clear that what was sold in this case was the entire right to the possession of the lands; this was understood at the time of the sale, and was shown, both by the conveyance executed by the Receiver and also by a letter from the agent of the Receiver, two or three weeks after the sale, in which the agent of the Nawab is requested to put the purchaser in possession of the property sold. Further, it did not appear from the evidence that any objection was made to the sale and disposal of the lands in 1861 or 1866, and, if the defendants had the right of cultivation and occupation of the lands, it was impossible to believe that they would have been silent on both occasions. Again, it was not probable that, if the mêlvarum right were all that was sold, the lands could have fetched the price they did; Mr. Cadell, therefore, thought there was nothing in the documentary evidence to show that the sale of the Thiruthandoni lands was not outright and free from any right of occupancy whatsoever. The oral evidence on the side of the defendants also seemed to Mr. Cadell too utterly vague and unsatisfactory to rebut the evidence on behalf of plaintiff. The defendants appealed to the High Court. Miller for the appellants; Sloan for the respondents.

The High Court delivered the following

Judgment:—23*rd May* 1870.

The question in this case is whether the plaintiff acquired a right, as landlord, to the property in question, and, as such landlord, had a right to eject the defendants.

It is quite clear that, under the sale made by the Receiver under Act XXX of 1858, the plaintiff acquired the right which His Highness the Nawab of the Carnatic had as against these defendants. And the evidence brought forward by the plaintiff to show what that right was merely proves what the defendants admit, that the defendants and their ancestors for many years have been in continued occupation of the land, paying to His Highness' agent half the annual produce as mêlvarum.

From this evidence it appears to us that the only inference that can reasonably be drawn is

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that the right and title sold to the plaintiff was subject to some continuing right of tenancy in the defendants. And there is nothing to show that, at the time of the institution of this suit, the plaintiffs had lawfully determined that tenancy, nor that the tenancy had then expired. It follows that the right to eject the defendants had not been established. Therefore, without saying, upon the evidence now before the Court, that the defendants possess a permanent right of tenancy, we think that the plaintiff has failed to establish his right to dispossess the defendants. The decree of the lower Court must be reversed, and the original suit dismissed with costs throughout.

SCOTLAND, C. J., AND HOLLOWAY, J.

Vendee — Shrotriem — Rights of kudikaniatchidars.

Where the vendee of certain shrotriem land sought to eject the tenants and compel them to remove their houses, treating them as mere tenants-at-will, and it was contended by the latter that the former had no right to do this, as they were the kudikaniatchidars of the village, and all that the vendee was entitled to was the right of his vendor, the former mirassidar, namely, the right to mélvarum—

HELD *that the very deed of sale transferring the shrotriem to plaintiff showed that all that was alienated was a right to the mélvarum, and that it recognized the coincident existence of kudikaniatchidars and tenants, who could not be treated as tenants-at-will.*

S. A. 557 *of* 1869.

Sultan Moideen *alias* Mahomed Rowten *v.* Muttappudaiyan and twenty-eight others.

PLAINTIFF sued, in the Court of the Principal Sudr Ameen of Tanjore, to recover possession, from the defendants, of certain lands in the village of Viraragavapuram, together with the trees standing thereon, in virtue of a bill of sale executed to him by one Pitchu Gurukul and another in 1863 for Rupees 2,000. He alleged that the defendants in possession of the lands were merely tenants-at-will, and sought to compel them to remove certain dwelling-houses erected by them in the village, and to recover value of past produce from them to the value of Rupees 1,719-8-0. The defendants contended that the claim put forward by plaintiff was greatly exaggerated; that they were, by transfer from Rama Taven and others, the *kudikaniatchidars* of the village; that, as such, they had continued many years in undisturbed possession and enjoyment of the lands, merely paying the annual mélvarum to the mirassidar, Pitchu Gurukul. Further, that Pitchu Gurukul had in 1838 executed to them a cowle, which had ever since been in force, by which the *kudikaniatchidars* were bound to pay mélvarum in cash at certain specified rates for nunjah and punjah lands; that they had paid these rates regularly, and without default, for thirty years, and were ready and willing to continue to pay the same to the mélvarumdar, whoever he might be. The late mélvarumdar simply transferred by sale to plaintiff the right he had to the mélvarum, and such sale did not authorize plaintiff summarily to oust them, because they objected to his unjust demand of an enhanced mélvarum to be paid in grain. The plaintiff had taken the place of Pitchu Gurukul, and was only entitled to the same rate of mélvarum. The Principal Sudr Ameen found that the sale deed A was a genuine document; that under it plaintiff was entitled to the same rights and privileges that Pitchu Gurukul had enjoyed; that the question as to what rate of mélvarum could be claimed by plaintiff should be decided by a Revenue Court under Act VIII of 1865 with special reference to Special Appeal 504 of 1861; but the Principal Sudr Ameen made no order as to whether the varum was payable in cash as heretofore, or in grain as claimed by plaintiff, and whether any past produce was due. Against this decree plaintiff appealed to the Civil Court, contending that defendants were merely his tenants-at-will, and he had a right to oust them when he pleased; that their cowle, on which they relied, granted them by Pitchu Gurukul, had been invalidated by the interpolation of the words "in perpetuity" in the final clause; and the Principal Sudr Ameen had erred in placing reliance on what was a forged document. The Civil Judge, Mr. Whiteside, was clearly of opinion that the plaintiff had by his purchase merely acquired the rights formerly held by Pitchu Gurukul; that those rights did not include the power of capriciously ousting defendants, nor of altering their rent according to any fancy of his own; that it was unjust to hold all the twenty-nine defendants responsible for the fraudulent interpolation of the words "*in perpetuity*" which had been done in 1866 by two or three individuals, who had been punished by the Sessions Court for the fraud they had committed; but it was not proved, nor ever alleged, that the present twenty-nine defendants had any cognizance of that fraud. If plaintiff conceived that he was entitled to a different or higher rent than that defendants had hitherto paid, he must follow the course prescribed for him by Act VIII of 1865, and, in the event of their refusing to comply with his demands, it was for him to prove, in the usual manner, before a duly constituted Revenue Court, that his demands were just and fair. From this decision the plaintiff

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appealed to the High Court. Craig for appellant; Miller for respondents.

The High Court delivered the following

Judgment:—*20th June* 1870.

In this case the special appellant's contention is that he is entitled to eject the defendants as his mere tenants-at-will. Special appellant is the vendee of Pitchu Gurukul, who possessed shrotriem in the village. By the very document executed by Pitchu Gurukul it is manifest that he alienated his right to the mélvarum, and that document recognizes the coincident existence of *kudimirassidars* and tenants. So far from its appearing upon the evidence that the plaintiff is entitled to eject the defendants at his pleasure, it rather appears that all which Pitchu Gurukul reserved to himself was the portion of the mélvarum apportioned upon particular lands to be paid according to the agreement by the defendants. On the findings in this case and on the construction of the document, there exists no reason whatever for finding the plaintiff's right to eject.

This special appeal will, therefore, be dismissed with costs.

HIGH COURT—CALCUTTA.

Couch, Sir R., *Kt.*, C. J., and Kemp, J.

Mullick Kurim Baksh (defendant) *v.* Harrihar Mandar and another (plaintiffs).*

User, right of—Enjoyment, period of, sufficient to create a right of user.

There is no rule of law that a certain period of enjoyment is required to establish the right of user.

This was a suit for the declaration of right to the use of the water of a certain *daur*, or watercourse, for irrigating the plaintiffs' land, and for the removal of an obstruction put upon it by the defendant. The defendant stated that he had not obstructed the watercourse, and that the plaintiffs had no right to the water for the purpose of irrigating their land.

The Munsiff held that the plaintiffs had a right to irrigate their land from the watercourse in dispute, and that the defendant had interfered with the same by having placed a bund over the course. He accordingly passed a decree in favour of the plaintiffs, with a declaration that the parties, plaintiffs and defendant, should make an alternate use of the water of the channel.

On appeal the Subordinate Judge confirmed the judgment of the Munsiff, holding that the evidence in the case proved that for a long time the lands of the plaintiffs had been irrigated with the water of the channel in dispute, but declared that the word "alternate" in the decree of the Munsiff meant that the defendant should use the water, and then, after him, the plaintiffs.

The defendant appealed to the High Court.

Mr. *Gregory* (Munshi *Mahomed Yousaf* with him) for the appellant.

Baboo *Ramesh Chandra Mitter* for the respondent.

The judgment of the Court was delivered by

Couch, C. J.—The Court has found in this case that there had been an enjoyment for a long time, and, consequently, that the plaintiff had established his right to the use of the water. Now, I think we must understand the expression "for a long time" as such a length of time as satisfied the Court that there was a right. No precise period of enjoyment can be said to be required in order to prove the existence of a right of this kind; it is a matter for the Court to determine whether the use has been for such a length of time as to satisfy it that there is a right to it. The cases, as far as I am aware on this side of India, do not go beyond that. The question whether a Judge is bound, upon proof of a certain period of user, to find that there is a right, is a different one from that of whether a Judge who has found a right was justified in doing so. There seems to be no rule of law which says that a certain period of enjoyment is required to establish the right, and, therefore, in this case, as the lower Court has found that there has been a use for a very long time, there is no objection to the finding in point of law. With regard to the other question, the plaintiff alleged in his plaint that he had been obstructed in his enjoyment of his right to the water by the erection of a bund. The lower Courts have found that the right, which the parties had, was that the defendant could make use of the water, and that, after that, the plaintiff would have the right to use it. That is the view which the lower Appellate Court took of the decree of the Munsiff. It may be that it will, on some occasions, be difficult to carry out this decree, and that at times disputes may arise between the parties as to whether the defendant has not done more than exercise the right to which he is so entitled, but that is a difficulty which is inherent in the case, and the nature of the rights possessed by the parties. If at any time the defendant makes use of the water to a greater extent than he has a right to do, and deprives the plaintiff of what he is really entitled to, the question will have to be tried in another suit. It is to be hoped, however, that a right having now been declared, the parties will exercise it in such a way as not to cause any further litigation. The only question which remains to be determined is whether it is proper to allow the decree of the Munsiff to stand with the construction which has been put upon it in the judgment of the Subordinate Judge. The Subordinate Judge says, "I dismiss the appeal, and I uphold the decision of the Munsiff as construed by me."

It would be better that he should alter the Munsiff's decree according to what he says is the proper construction of it, so as to make the right declared more defined and precise; but the parties may make an application to him to amend his decree, and to word it so that it may be in accordance with what he holds to be the proper construction of the lower Court's decree. It is not a matter

* Special Appeal, No. 2,806, of 1869, from a decree of the Officiating Subordinate Judge of Bhaugulpore, dated the 18th June 1869, affirming a decree of the Munsiff of that district, dated the 3rd March 1869.

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for which a special appeal was necessary, and, therefore, this appeal must be dismissed with costs.—*6th May* 1870.—*Bengal Law Reports, Vol. V, Part XXV.*

BAYLEY AND MARKBY, J. J.

Sri Chand (defendant) *v.* Nim Chand Sahu (plaintiff.)*

Co-proprietor—Injunction—Injury.

The defendant was in possession of land under a potta granted by the ijaradars of the proprietors, and thereon commenced to build a house and plant a garden. The plaintiff, who had bought the right, title, and interest of one of the proprietors, sued to restrain him. He did not allege any injury.

HELD *that such suit would not lie.*

THIS was a suit for the demolition of the walls of a house and for restraining the defendant from planting the garden and constructing the new house, which he was then building, on a parcel of land in Mauza Rostompore Shahpore, on the ground that the plaintiff had purchased the right, title, and interest of one of the proprietors, and that the defendant had been forcibly planting a garden and erecting a building on the land belonging to the taluk.

The defence was that the defendant had obtained a potta from the ijaradars of the proprietors who had power to grant such pottas, and that the purchase of the plaintiff of a fractional share could not affect his right.

The Munsiff held that the potta was proved; that the ijaradar had power to grant such pottas; that, as the plaintiff was the holder of a small portion in a joint and undivided mauza, he had no right to advance his claim regarding the whole plot of land in dispute; that it would be a great hardship to pass any order regarding the whole house and garden in a suit instituted by a party who was owner of a small fractional share. He accordingly dismissed the plaintiff's suit.

On appeal the Subordinate Judge found that the potta alleged to have been granted by the ijaradar had not been proved; that the ijaradar had no power to grant a potta in perpetuity; and that the defendant had been planting a garden and erecting a building or house upon land over which he had no right. He accordingly passed a decree in favour of the plaintiff for possession of the land by destroying the wall, house, and garden of the defendant.

The defendant appealed to the High Court.

Mr. *R. T. Allan* (with him Baboos *Mahesh Chandra Chowdhry*, *Gopal Chandra Mookerjee*, and *Narsing Chandra Mitter*) for appellant.

Mr. *C. Gregory* (with him Baboo *Hem Chandra Banerjee*) for respondent.

MARKBY, J.—It seems to me that, during the whole argument in this appeal, the pleader for the respondent has persistently avoided the point upon which the Court long intimated to him that the decision of the case turns.

Upon many points involved in this case it is unnecessary to pass any opinion whatever. The Munsiff in the first Court held that this suit could not be maintained by the plaintiff. It was a suit brought in substance to stop the defendant from enjoying a property of which he was in possession, by preparing a house, and forming a mango garden upon it, and to have the building of the house stopped, and the wall and trees removed. The defendant's right to possession is not disputed, and it is alleged that he derived his title from certain ticcadars, who again derived their title from the co-sharers of the plaintiff.

The first Court, therefore, lays down, as a principle, that one of several co-sharers cannot, without the consent of the other co-sharers, come in and interfere with the enjoyment of the property by the defendant, who holds under a title derived from all. This view of the case is perfectly in accordance with a decision of Peacock, C. J., and Glover, J., in *Lala Biswambhar Lal* v. *Rajaram.** That case, it is true, arose as between two co-proprietors who were themselves in enjoyment of the property; but it seems to me that on principle the same rule applies where one of several proprietors is seeking to control the enjoyment of the property by the common tenant of all. The mode of dealing with the land as between co-proprietors is really what was in question in both the cases. The only point omitted by the Munsiff is that he does not say in terms whether the defendant was doing any injury to the land, but no injury was ever alleged by the plaintiff, and I would observe that there could be no injury, and, therefore, this case appears to me to be exactly similar to the decision quoted above, in which I fully concur.

I would add that in the case of *Nabin Chandra Mitter* v. *Mahes Chandra Mitter*,† decided almost at the same time, I expressed an opinion that, were the question whether there is any injury done or not, the same principle would apply. It is not necessary in this case to decide that point; but, as that case has been referred to, I have only to say that I still maintain the opinion that I therein expressed.

The judgment of the lower Appellate Court is reversed, and the plaintiff's suit dismissed with costs.

BAYLEY, J.—I think that the case of *Lala Biswambhar Lal* v. *Rajaram*,* decided by Peacock, C. J., and Glover, J., should govern this case, the only difference being that the co-proprietors in that case and the representatives of the co-proprietors in this were the parties interested. In other respects there is no difference. The suit alleges no injury, asks for the relief of no injury, and, in fact, it is a suit in which one of several co-sharers, without the consent of the others, asks to have certain trees uprooted, and walls removed from the common land.

I agree in dismissing the plaintiff's suit and reversing the judgment of the lower Appellate Court, with costs of this Court and of the lower Appellate Court.—*11th April* 1870.—*Idem.*

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* Special Appeal, No. 1,983, of 1869, from a decree of the Subordinate Judge of Patna, dated the 31st July 1869, reversing a decree of the Munsiff of that district, dated the 30th January 1869.

* 3 B. L. R., App., 67. † 3 B. L. R., App., 111.

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HER MAJESTY'S PRIVY COUNCIL.

[Bengal Case.]

Disputed boundary—Action for recovery of land —Mesne profits—Execution of part of decree —Costs.

In a question of disputed boundaries, where A claimed the recovery of certain land from B, the Privy Council had declared A entitled to two villages and all other land which might be ascertained, on inquiry by the High Court, to be within his boundary. Instead of awaiting the result of this inquiry, A applied for execution of the first part of the decree, namely, possession of the two villages, and the Court proceeded to execute, but refused mesne profits, as the Privy Council had made no mention of mesne profits—

Held *that, as the first part of the decree, as regards possession, had been executed, everything connected with possession should have been executed at the same time; that the right to mesne profits is consequential on the declaration of possession; but that, as the appellant had applied for execution piecemeal and the Court was in error, the appeal was to be dismissed without costs.*

Judgment of the Lords of the Judicial Committee of the Privy Council on the appeal between Rajah Leelanund Singh and Maharajah Lukhmissar Singh Bahadoor, from the High Court of Judicature at Fort William in Bengal, delivered 15th July 1870.

Present:

Lord Cairns.
Sir James W. Colvile.
Sir Joseph Napier.

Sir Lawrence Peel.

The appellant in this case originally sued to recover from the respondent certain villages and lands, alleging that, on a true adjustment of the boundaries, they belonged to the Nizamut Mehals, and not to Havailee. He claimed also mesne profits. The suit was dismissed by the Court of first instance, and that dismissal was confirmed by the Sudr Dewanny Udalut.

Their lordships, on whose recommendation the order in question was made, thought that this dismissal was wrong, and in an ordinary case they would have made the final decree which the Appellate Court in India ought to have made. Not having materials for doing this, they suggested the order in question, which declared the appellant absolutely entitled to the villages of Goremahee and Goruckpore, and to all the rest of the land in dispute which was not comprised in the settlement of Havailee. By declarations it limited Havailee to 123,207 beegahs, including 129 beegahs and 19 biswas, part of Beadon settlement, and so much of the land in dispute as belonged to, or was attributable to, the Bunker and Boondee Mehals. It then directed the High Court of Calcutta to make the inquiry necessary to understand what this last-mentioned land was, and to proceed in the suit as upon the result of such inquiry might seem just,—dealing with the whole question of costs, including the taxed costs of the appeal.

Now, in this state of things, their lordships are of opinion that the appellant might well have waited the result of those inquiries and accounts before applying to the High Court in Calcutta for the execution of the earlier part of the decree with reference to those villages to which he was declared entitled; and their lordships also are of opinion that the High Court at Calcutta might well have declined, if they had been so minded, to execute the earlier part of the decree until they had completed the whole of the inquiries and accounts. However, the appellants did apply to the Court for the execution of the part of the decree which related to the two villages of Goremahee and Goruckpore, to which his title had been declared, and the single judge of the High Court, on whom appears to have devolved the duty of answering the application, was willing to execute, and proceeded to execute, the decree so far as regards possession of these two villages. He stated his opinion to be that, with regard to mesne profits, inasmuch as the order of Her Majesty in Council had not specifically mentioned anything about mesne profits, it would not be proper for the Court in India, in executing a decree, to make any order with regard to the mesne profits.

That order standing would, of course, be an impediment hereafter, even after the inquiries directed by the other part of the decree were completed, in the way of any application by the appellant on the subject of mesne profits from those two villages; and, inasmuch as their lordships are of opinion that, had the first part of the decree stood alone, it would have been one of the consequential directions proper to be given to ascertain the amount of mesne profits at the time that possession of the villages was given, they think that, inasmuch as one part of the decree, namely, that with regard to possession, has been executed by the High Court, everything connected with that possession should be executed at the same time.

Their lordships are of opinion that the right to mesne profits is consequential on the declaration in the decree and upon possession.

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They, therefore, think that the High Court should proceed to ascertain, either itself or by an issue properly framed, to be answered by the local Court, what the amount due to the appellant for mesne profits upon these two villages is. They will, therefore, humbly recommend to Her Majesty that an order should be made to that effect; but, inasmuch as the difficulty has arisen, partly by the application of the appellant to execute the decree piecemeal, and partly by the erroneous apprehension which the Judge appears to have entertained of the effect of the decree of their lordships, think it a case in which there ought to be no costs of the appeal.

SELECT JUDGMENTS OF THE MADRAS SUDR UDALUT.

Scott and Greenway, J. J.

Inam lands in zemindaries—Kattoobady—Payment for more than twelve years.

Where a Zemindar sued certain inamdars for kattoobady, alleging that such tax formed part of the income on which he was assessed—

Held *that the inamdars could not prove that their lands were lakhiraj; that, even if they could prove that their lands were originally lakhiraj, they themselves were not the original grantees, and had meanwhile paid kattoobady between* 1802 *and* 1817*; that it was probable, therefore, that the tenure had been altered on the death of the original grantees; that the Zemindar had a perfect right to collect such taxes as kattoobady, as they invariably formed part of the resources of the zamin on which the kist payable to Government was assessed; but that the Zemindars had no right to change the amount of the quit-rents payable by their tenants.*

No. 16 *of* 1817.

The late Zemindar of Bezoara sued Khajah Shumsoodeen and the late Munjool Meea, in the Zillah Court of Masulipatam, for the recovery of the estimated value of kattoobady and other dues, payable from Fusly 1217 to Fusly 1220, for certain lands held by them in the villages of Puttamutta and Goonadulla, situated in his zemindary, together with a like sum for damages, on account of their resisting attachment, according to Section 17, Regulation XXVIII of 1802, making a total of Rupees 3,939-12-0.

The Zillah Judge dismissed the suit with costs, as did also the Provincial Court for the Northern Division.

Pending the appeal in the Provincial Court, the original plaintiff died; and, an application having been made to the Court of Sudr Udalut on behalf of his heir, Rajah C. Vencatarama Gopal Jugganadha Rao, for the admission of a special appeal from the decision of the Provincial Court, the Court of Sudr Udalut admitted the special appeal solicited, on the ground that the suit involved questions of a general and important nature, the erroneous decision of which might be of serious ill.

In the pleadings filed in the Zillah Court, on the part of the original plaintiff, it was averred that the inam lands held by the defendants, consisting altogether of twenty-two cutties, were subject to the payment of a tax called "kattoobady," at the rate of four tooms per pootty on an estimate of the produce; that the tax was paid long before, as well as subsequent to, the formation of the permanent settlement; and that the said tax formed part of the resources upon which the permanent assessment of his zemindary was made. The defendants, on the other hand, averred that, according to the sunnuds in their possession, the lands held by them were lakhiraj, or exempt from the payment of revenue; that the Government never established or received from them any tax; and that the share of the produce which the Zemindar had collected from them was taken by force.

The Zillah Judge was of opinion that the plaintiff had failed to prove that the inams held by the defendants were kattoobady inams; that what had been taken from the defendants, on account of their inams, had been taken by the strong hand of power, contrary to the intention of the authorities by whom the inams were originally granted to the family of the defendants; and that, if the inams were kattoobady inams, the plaintiff had no right under the Regulations to the kattoobady, inasmuch as Section 4, Regulation XXV of 1802, declares in the most express terms that the permanent assessment of the land revenue shall be exclusive of lakhiraj land and all other lands paying only favourable quit-rent. The Zillah Judge considered it to be fully proved by documents, which he enumerated, that the defendants had been made to pay something for their inams, both before and since the permanent assessment of the land revenue; and he also deemed it to be satisfactorily proved by documents, also enumerated, that the inams were granted as kharij-jumma or exempt from the payment of tribute, and were so considered for a number of years.

According to the decree of the Provincial Court the appeal was dismissed exclusively on the following grounds, namely, because the appellant had not filed on record, either in the Zillah or in the Provincial Court, any evidence to

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establish his right to the kattoobady claimed, and because he had not produced even a single document or witness to prove that it had been customary to receive the kattoobady prior to the formation of the permanent settlement, or for a period of twelve years prescribed by Section 4, Regulation XXXI of 1802.

The exhibits filed by the plaintiff in this case went to show that, whatever might be the tenure on which the lands held by the defendants were originally granted, a kattoobady was paid for them from the Fusly year 1202 to the Fusly year 1217, that is, for a period of fifteen years prior to the date on which the cause of action arose. The defendants, indeed, objected to the admission of the village accounts as evidence, on the ground that the Zemindar, by his influence over the Curnums, might cause such accounts to be fabricated so as to suit his purpose; but they did not produce, nor attempt to produce, any evidence to invalidate those accounts, the general correctness of which was, in fact, partly corroborated by their own admission, that the Zemindar had been in the habit of making collections from them on account of their lands. These collections, they averred, were made by force; but they did not attempt to support the averment by evidence. It was not to be presumed that they would have quietly submitted for so long a series of years to unauthorized exactions, and there was no evidence to show that they offered any resistance until Fusly 1217. Two exhibits, bearing the signature of one of the defendants, Khajah Shumsoodeen, the execution of which was not denied, afforded conclusive evidence that a payment under the denomination of "roosoom" or "kattoobady" was made for the land, in the village of Puttamutta, on account of the Fusly years 1201 and 1216.

In regard to the exhibits filed by the defendants, the Court observed that they did not afford proof that the lands in question were originally granted free of assessment. They consisted of doombalas for the produce, and of orders addressed to public officers, in which allusion only, and that in vague and general terms, was made to the contents of separate or former sunnuds. Those sunnuds were not produced, and no cause was assigned for their non-production. The exhibits filed by the defendants proved nothing more than that the lands in question were held for a series of years on the tenure on which they were originally granted; but the nature and condition of that tenure could be ascertained only by reference to the original grants which, as stated before, were not produced. To show, indeed, that no sort of reliance could be placed on instruments of the nature of those produced by the defendants, it was only necessary to refer to the doombala No. 49 and several of the succeeding doombalas, wherein the land in the village of Puttamutta was mentioned as the inam of Shah Tuhoor Ollah; whereas, it appeared from the order to the public officers, No. 48, that Shah Tuhoor Ollah was then dead, and that the land in question was granted for the support of his tukeea, while some of the other doombalas represented it as granted for the mudud maash or personal support of his son, Khajah Noo-rood-deen.

It was clear, therefore, that the defendant had altogether failed to prove that the lands held by them were originally granted free from assessment; and, even if that plea had been established, it would not be sufficient to make good their title to the exemption. The defendants were not the original grantees; and, in the exhibits filed by them, there was nothing to show that the grants were hereditary. The land in the village of Goonadulla, consisting of six cutties, appeared to have been granted to Shah Tuhoor Ollah Durvish, and that in the village of Puttamutta, consisting of fifteen cutties, to his son Khajah Noor-ood-deen. Both grants, as far as the nature of them could be ascertained from the exhibits filed, appeared to be mere personal grants; and, as it was clearly established that, for a period of fifteen years at least before the cause of the present action arose, the lands granted were subject to an assessment under the denomination either of kattoobady or of roosoom which, as far as was shown in the record, was paid without resistance, the obvious presumption was that, if the lands were originally held lakhiraj, in the strict meaning of the term, the nature of the tenure was modified after the death of the original grantees.

The Court, therefore, after an attentive consideration of this part of the case, were decidedly of opinion that the defendants had not established their title to the exemption which they claimed; and it was, moreover, to be observed, with reference to the provisions of Section 4, Regulation XXXI of 1802, that their title to such exemption, if they ever possessed a good one, would now avail them nothing, inasmuch as it was clearly proved that they had continued to pay revenue, under the denomination either of roosoom or kattoobady, for a period of upwards of twelve years before they attempted to resist the payment.

The next point for consideration was whether the Zemindar was entitled to collect quit-rent payable by the defendants for their lands.

The right of a Zemindar to collect favourable quit-rents of this description appeared to the Court to be unquestionable. It was within their knowledge, and ought to have been within the knowledge of the lower Courts, that this item of revenue was included in the assets upon which the permanent assessment of every zemindary was formed. The fourth clause of the sunnud-i-milkeut-i-istimrar was indeed decisive on this point; and it declared, not that these

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quit-rents were *not receivable*, but that they were *unchangeable* by the Zemindar. It would have been obviously absurd and inconsistent to declare this item of revenue to be included in the assets of the zemindary, and yet to debar the Zemindar from the right to collect it; neither was this clause of the permanent sunnud any wise incompatible with the provisions of Section 4, Regulation XXV of 1802, which the Zillah Judge quoted as conclusive against the plaintiff's claim. That section provides that the permanent assessment shall be made exclusively of certain sources of revenue, among which are enumerated "lands paying only favourable quit-rents." The exclusion refers not to the *quit-rents* but to the *lands*, which might otherwise have been considered assessable with the full jumma at the discretion of the Zemindar; that discretion the Government reserved to itself, and the exercise of it is subjected to the rules contained in Regulation XXXI of 1802. Upon the grounds above stated the Court adjudged that the original plaintiff had established his rights to collect a quit-rent from the defendants, and the only remaining point for consideration was the amount of quit-rent due for the lands on account of the years 1217, 1218, 1219, and 1220. The plaint set out by stating that the kattoobady, at the rate of four tooms per pootty on an estimate of the produce, was payable for the lands; but, in the detailed statement of the amount claimed, were inserted other items of which, as the Zillah Judge correctly observed, no explanation was given. These items consisted of what was called the ambarum share of the produce of savarum land in both villages; of a tax on toonch trees; and of dues payable for inams granted to Govindarauzwar, Conarywar, Munchagunty Comarauze, and Conary Boochiah. Neither in the petition of appeal to the Provincial Court nor in that to the Sudr Udalut was any attempt made to explain these items of claim; and as in the village accounts filed by the plaintiff nothing appeared, as far as the Court could see, to warrant them, they must be rejected, as must also the claim to damages for resistance, to distraint of which no proof appeared on the record.

That the quit-rent payable by the defendants was at the rate of four tooms per pootty on the produce, the Court considered to be sufficiently established by the village accounts filed by the plaintiff. The defendants in their answer objected to the estimate of the produce for the years in question as excessive; but, on comparing that estimate with the statement contained in the village accounts, the Court observed that its average was very little higher than the average of the produce for the four years preceding, namely, Fuslies 1213, 1214, 1215, and 1216. At the present stage of the proceedings, any benefit that could result to either party from having the exact amount of the produce in the year in question ascertained by evidence would be counterbalanced by the delay in the final decision of the suit already too long protracted; and as the most equitable method of settling this point, under all the circumstances of the case, the Court adjudged that the quit-rent payable to the plaintiff for the Fusly years 1217, 1218, 1219, and 1220, should be calculated on the average of the produce for the four preceding years, at the rate of four tooms per pootty, and at the commutation price of Pagodas $5\frac{5}{8}$ per pootty for the village of Puttamutta and Pagodas $5\frac{3}{4}$ for the village of Goonadulla, those being the respective averages of the prices specified in the petition of plaint, to which the defendants offered no objection.

With his petition praying the admission of a special appeal, the appellant presented sundry documents, which, as they were not produced in the lower Courts, and no cause was assigned for their non-production, were inadmissible and ought not to have been received. The Court directed that they be returned to the appellant, and, with regard to that part of the petition in which it was stated that the Zemindar had been cast in several other suits precisely of the same kind as the present, and, in the event of the judgment of this Court being in his favour, it was his intention to apply for the admission of special appeals from the decrees in the other suit referred to, the Court observed that the regular course for the appellant to pursue was to apply to the Court which passed such decisions for a review of judgment under the provisions of Section 6, Regulation XV of 1816.

On the grounds above stated the Court set aside the decrees passed by the lower Courts in this case.—*I. Select Decrees, p.* 179.

SCOTT AND GREENWAY, J. J.

Mirasdars — Sub-renters — Coopatum —Kudivarum.

Where certain mirasdars sued the sub-renters of a village for the recovery of coopatum and kudivarum alleged to be due to them—

HELD *that the mirasdars' claims to coopatum and kudivarum did not rest on identical grounds; that they were entitled to kudivarum only when mirasdars themselves cultivated the land, or, at least, had caused it to be cultivated on their own behalf; but that, as to coopatum, that was their right as lords of the soil, and was only to be determined according to the provisions of Hindoo law.*

No. 3 *of* 1819.

PEDDOO NAICKEN CHENGLEROYA MOODELLY, Soorapah Moodelly, and Mamapah Moodelly,

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mirasdars of the village of Perumbaukum, instituted this suit, in the Zillah Court of Chingleput, to recover from Teroocovilloor Soobaroyer, the renter, Ramasawmy Iyen, his brother and goomastah, and Valapah Moodelly, the sub-renter of the village, the sum of Pagodas 110, the balance (after deducting a payment made of Pagodas 13½) of the estimated amount of allowances called coopatum, on account of samba grain, from the year 1806-7 to 1813-14, and Pagodas 45, the estimated kudivarum or cultivator's share of a tope, from the year Crodauah (1805-6) to Streemooka (1813-14); total amount claimed, Pagodas 155.

The Zillah Court adjudged to the plaintiffs the sum of Pagodas 232-25-6 with costs.

From this decision one of the defendants, Ramasawmy Iyen, appealed to the Provincial Court for the Centre Division, and that Court reversed the decree of the Zillah Court, and adjudged the respondents, Peddoo Naicken and others, to pay all costs.

On the application of Peddoo Naicken, the Court of Sudr Udalut resolved to admit a special appeal from the decision of the Provincial Court so far as it regarded the claim for the allowance called coopatum.

In considering the application for the admission of a special appeal in this case, the Court were unable to acquiesce in the broad and sweeping principles upon which the decree of the Provincial Court appeared to be founded. In declaring that "whether the renter endeavoured to oppress them (the mirasdars) or not, their abandoning their lands was a step useless to themselves and injurious to the renter and the public," and that "such conduct in mirasdars has ever been considered as deserving of the forfeiture of their right of cultivation," the decree went to establish maxims which, taken in a general point of view, seemed to the Court to be inconsistent with law and repugnant to the common principles of equity, and the rejection on such grounds of the plaintiff's claim to the grain allowance called coopatum was an error which the Court considered it necessary to correct.

The determination of the case appeared to the Court to involve an abstract question of the greatest importance, both as it affected the rights of the subject and the interests of the Government, namely, whether the privileges of a mirasdar are liable to become forfeited by his omission or refusal to cultivate his mirassi lands himself or to provide for their cultivation by others. The decision of this question would require a very comprehensive reference to the provisions of the Hindoo law in regard to vested rights and their liability to forfeiture. It would be necessary to ascertain whether, according to the particular privileges arising out of the possession of mirassi property in land is dependent upon the performance of certain fixed and definite conditions; and whether under any, and what, circumstances the omission or refusal to perform these conditions might be so far justified as to save the right from forfeiture.

The fundamental error of the Provincial Court's decision appeared to have arisen from their confounding the right to receive the kudivarum or cultivator's share with the right to the peculiar privileges which are incidental to, and evidence of, mirassi property in lands. The kudivarum is, no doubt, receivable by the persons who cultivate the lands; and, if the mirasdar has omitted or refused to undertake its culture, he can have no right or title to the share of the produce allowed as a remuneration to those who actually cultivate it. But it does not follow that the mirasdar, by forfeiting his right to kudivarum, forfeits also his right to the peculiar privileges vested in him as the proprietor of the land. To entitle himself to the first, he must bestow upon the land the benefits of his stock and labour; and, if he withholds these, he cannot claim the advantages resulting from the employment of stock and labour by others. But his right to coopatum and other privileges of the similar nature rests upon grounds altogether different. It rests in him as mirassi proprietor of the land; and, whether his omission or refusal to cultivate will operate to divest him of it, while the land is in the temporary occupancy of others, is a separate and distinct question which, as stated before, must be decided by a reference to the provisions of the Hindoo law and the immemorial customs and usages of the country.

On an attentive consideration of the record, however, it appeared to the Court that the determination of this important question was not necessary to a decision on the claim of Peddoo Naicken and the other original plaintiffs. In the first place, their claim was for the whole coopatum of the village, whereas it appeared in evidence that there were other mirasdars who must be entitled equally with the plaintiffs to a share of the mirassi privileges in proportion to the share which they hold in the village. As they had not joined in the action, it must be assumed that they had received the shares to which they were respectively entitled. In the next place, there was no sufficient evidence that Ramasawmy Iyen, against whom the action was more particularly directed, appropriated to himself the allowance which is the subject of the action. There was, on the contrary, the evidence of Narrain Naick, a relation of Peddoo Naicken, that a part of it at least was received by Valapah Moodelly. This man was one of the original defendants. In the petition of the plaintiffs he was designated as "mortgagee of ground" and the sub-renter of the village, and, in the answer filed by two of the respondents in the Provincial Court, they admitted that they,

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with others, mortgaged part of their lands to Valapah Moodelly; but they averred that he received nothing on account of coopatum. They abandoned, therefore, their original claim against him, and they failed to substantiate their claim against the other surviving defendant, Ramasawmy Iyen.

The Court, therefore, although they did not concur in the grounds of the Provincial Court's decision, affirmed their reversal of the decrees passed in this case by the Zillah Judge, and they accordingly adjudged that the appeal be dismissed and that the appellant, Peddoo Naicken, pay all costs.—*Idem*, *p.* 227.

OFFICIAL PAPERS.

Discount on adhesive Court Fees' Stamps.

Proceedings of the Madras Government, Revenue Department, 29*th July* 1870.

Read the following Proceedings of the Board of Revenue, dated 17th June 1870:—

Read the following letter from the Acting Superintendent of Stamps, to the Acting Secretary to the Board of Revenue, dated Madras, 10th June 1870, No. 1613.

I beg to submit, for the consideration of the Board, the advisableness of reducing the rate of discount allowed on the sale of adhesive Court Fees' stamps.

Board's Procs., 8th April 1870, and 13th April 1870, No. 2560, paras. 8 to 11.

2. I was informed that adhesive stamps for values besides those for the fractional parts of a rupee were very much required. As it is intended before long to have adhesive stamps for all values under 100 Rupees, I have, in consequence of the information received, converted, and shall continue to convert, into Court Fees' stamps, the foreign bill stamps not in demand for 1, 1½, 2, 3, 4, 6, 8, 12, 18, and 24 Rupees. The demand for these adhesive stamps is very considerable in the High Court, and probably in the Mofussil Courts also, preference being given to them because they can be kept within a small compass, and need not be used until the very moment they are required. The liberal rate of discount allowed* on the adhesive stamps in question in common with all other adhesive stamps may, therefore, it appears to me, well be reduced now. The stamp vendor in the Sea Custom Office has informed me that he is only allowed discount at three per cent on adhesive Court Fees' stamps. As there is a delay in publishing the rules for the sale of stamps, I beg to suggest that the last-mentioned rate of discount be laid† down by a circular from the Board of Revenue in all districts without delay.

* Board's Procs., 8th March 1869, No. 1558.

† *Vide* Board's Proceedings, 13th April 1870, No. 2506, paragraphs 13 and 15, and Rule VI. in Draft Rules proposed in letter to Govt., 7th February 1870, No. 883.

In their Proceedings of the 13th April 1870, No. 2506, the Board suggested that stamps under the Court Fees' Act must be made to fall under Class 2 of Rule I. of the Draft Rules framed under Section 48 of the General Stamp Act, 1869, if those rules were made applicable to them.

2. Under Rules VII. and VIII., the discount allowed to vendors on stamps of Class 2 is to be three per cent to vendors licensed at places where stamps are sold by Government, and five per cent to vendors licensed at other places, provided that no discount is given on any stamp exceeding Rupees 50 in value, or when the stamps purchased at one time are worth less than Rs. 25.*

* The present practice in this Presidency.

3. As it is still uncertain when any rules for the sale of stamps under the Court Fees' Act will be adopted, and the revenue is suffering in the meantime, the Board request Government to allow them to issue a notification to the effect that, pending further orders, the discount allowed on Court Fees' stamps will be three per cent, provided that no discount will be given on any stamp exceeding Rupees 100 in value, or when the stamps purchased at one time are worth less than Rupees 25.

Order thereon, 29th July 1870, No. 1125.

Under the circumstances represented in the foregoing Proceedings, the Right Honourable the Governor in Council is pleased to authorize the Board of Revenue to issue a notification in the terms proposed in paragraph 3 of their Proceedings.

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

Commission on sales of Court Fees' Stamps.

Proceedings of the Madras Government, Revenue Department, 13*th September* 1870.

Read the following Proceedings of the Board of Revenue, dated 4th July 1870, No. 4690:—

Read again Board's Proceedings, dated 15th June 1870, No. 4178.

Read also the following letter from the Acting Superintendent of Stamps, Madras, to the Acting Secretary to the Board of Revenue, dated 17th June 1870, No. 1681.

In reply to the Board's Proceedings of the 15th instant, I beg to state that I think the suggestion of the Collector of Malabar should be adopted in his district, and extended to all other districts where it may be considered necessary by the Collectors.

2. No. IX. of the Rules for the sale of stamps, proposed by the Board in their letter to Government, 7th February last, No. 883, provides for advances of stamps of Class 2 being made to licensed vendors.

3. I would suggest that Collectors be consulted as to the extent of the advance of stamps to be made in each district to the vendors, in order that a fixed scale may be established, subject to alteration with the sanction of the Board, and that the opportunity be taken to ascertain in each district

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whether additional vendors are not required. The issue of the advances of stamps need not be deferred until the scale above proposed is fixed.

Under the new Stamp Acts the number of different denominations of stamps is so numerous that vendors cannot afford to purchase a stock containing at least one of each denomination at the same time. The Collector of Malabar reports that this causes great inconvenience, and proposes to supply vendors with such stock as may be necessary without payment.

2. Pending the final adoption of Rules for the sale of stamps under each Act, the Board resolve to request Government to permit Collectors to supply vendors with stamps, without payment, at their discretion, having first taken sufficient security. The rate of discount allowed on these stamps will be two per cent, so that vendors will still purchase as much of their stock as they can.

3. Before calling on Collectors for a report with regard to vendors, the Board think it desirable to await further orders as to the persons by whom the sale of stamps under the Court Fees' Act is to be conducted.

Order thereon, 13th September 1870, No. 1458.

The recommendation of the Board to the effect that vendors may be supplied with Court Fee stamps without payment for sale on commission at two per cent is sanctioned as a temporary arrangement. Security should in all cases be taken. The Board will consider and report whether it would not be better and more economical to have salaried vendors at all events at each station of a Court or populous town.

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

POWERS OF COLLECTORS UNDER GENERAL STAMP ACT.

Proceedings of the Madras Government, Revenue Department, 21st September 1870.

Read the following Proceedings of the Board of Revenue, dated 25th August 1870:—

Read again Board's Proceedings, dated 18th August 1870, No. 5356.

Read also the following letter from the Registrar-General of Assurances, to the Acting Secretary to the Board of Revenue, dated Madras, 20th July 1870, No. 78.

I have the honour to forward, for the information of the Board of Revenue and for such orders as the Board may consider necessary, the accompanying reference from the Registrar of Tinnevelly, No. 148, of the 13th instant, regarding certain questions arising under Section 23 of the General Stamp Act.

ENCLOSURE No. 1.

From the Registrar of Assurances, Tinnevelly, to the Registrar-General of Assurances, Madras, dated 13th July 1870, No. 148.

Under the provisions of Section 23 of the General Stamp Act XVIII of 1869 the several Sub-Registrars forwarded direct to the Collector, as therein required, all insufficiently stamped instruments which were brought to their offices for registration for the purpose of being disposed of by him under Section 20 or 24 of the said Act.

2. The Collector referred all such cases to me for disposal, and, when I pointed out that I did not think I was competent to dispose of them as I was only his personal assistant and had no original jurisdiction, and that they were disposable by himself as Collector of the district, who, for the purposes of the Act, might be either "a Deputy Commissioner or any officer having jurisdiction equivalent to that of a Collector of a district," (*vide* Clause 9 under Section 3 of the said Act,) he framed Proceedings, under date the 25th February last, delegating to me, under Clause 2, Section 3 of Regulation VII of 1828, all the powers conferred on the Collector or any officer in charge of a division for the purposes of Act XVIII of 1869, and directed me to proceed, under Section 20 or 24, in the cases referred to him by the Sub-Registrars for disposal.

3. As the definition of "Collector" seemed to include the divisional officers of the district who have independent charges and exercise co-ordinate powers with the Collector, I directed the several Sub-Registrars to send in future all cases in which unstamped or insufficiently stamped instruments were produced before them to the divisional officers concerned for disposal instead of to the Collector; but the late Sub-Collector, Mr. Pennington, was of opinion that Regulation VII of 1828 did not include the case of the Stamp law, the administration of which, he goes on to say, seems to have been *intentionally* reserved to the Collector and the Treasury Deputy Collector, and adds that he is "not aware of any *precedent* for a Sub-Collector or other divisional officer disposing of these cases," and for these reasons declined to take up the cases referred to him by the Sub-Registrars in his division.

4. Under these circumstances some authoritative order or ruling seems desirable to guide both myself and the Sub-Registrars in our procedure under the Stamp Act, and the points involved in doubt are—(1), whether the Collector is competent to delegate his power, under the Stamp law, to a subordinate officer of the district under the provisions quoted above of Regulation VII of 1828; (2), whether the administration of the Stamp law is, as put by the Sub-Collector, reserved to the Collector of the district and his Treasury Deputy exclusively; and (3), whether divisional officers are, or are not, included under the definition given of Collector in Clause 9, Section 3 of the Stamp Act.

The Board have no doubt that the intention of the General Stamp Act is that the officer exercising the powers of a Collector shall be the head of the district, and they are further of opinion that it is most undesirable that the Collector should depute those powers to a subordinate. Amongst them is the power of adjudication, which, up to passing of the Act, was reserved to the Board.

2. Under Regulation VII of 1828 a Collector may depute to subordinates any of the powers conferred on him by a subsequent enactment unless "expressly" prohibited in that enactment. The prohibition in the General Stamp Act of 1869

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is implied, but it can scarcely be said that it is expressed.

3. Pending further orders the Board resolve to direct Collectors not to delegate any of their powers under Act XVIII of 1869 to their subordinates.

Ordered that a copy of the above Proceedings be submitted to Government.

Order thereon, 21st September 1870, No. 1480.

The orders of the Board of Revenue are approved.

(True Extract.)
(Signed) H. E. STOKES,
Under-Secretary to Government.

TRANSFER OF GOVERNMENT WELLS IN CHINGLEPUT DISTRICT.

Proceedings of the Madras Government, Revenue Department, 26th August 1870.

Read the following Proceedings of the Board of Revenue, dated 14th July 1870, No. 4877:—

Read the following letters:—

From W. T. BLAIR, Esq., Acting Collector of Madras, to the Acting Secretary to the Board of Revenue, dated Sydapet, 18th May 1870, No. 173.

With reference to the Board's Proceedings of the 23rd April last, No. 2705, I have the honour to state that the Order of Government, dated 17th March 1869, No. 723, sanctioning the reduction of assessment on old well lands in this district, not having been received till the settlement of more than four out of six taluks had been completed, Mr. Fane was unable to carry out the reduction during the settlement of Fusly 1278. Orders were, however, issued to the Tahsildars last year to suspend the collection of the amount remitted by Government.

2. The regular fieldwar reduction of assessment was carried out during the settlement this year, and a statement of the financial effect of the reduction conceded is now under preparation in the several taluks, and will be submitted to the Board at an early date.

From the same officer, dated Sydapet, 21st May 1870, No. 177.

With reference to the Order of Government, dated 17th March 1869, No. 723, communicated in Board's Proceedings of the 20th idem, No. 1929, calling for full information regarding certain wells said to have been constructed and kept in repair at the cost of the State, I have the honour to state that the wells in question are sixteen in number, and are scattered over the district as indicated in the margin.

Sydapet	1
Chingleput ...	2
Madranticum ...	11
Trivellore ...	2

2. The well in the Sydapet Taluk is situated in the old cutcherry compound at Poonamallee. It appears to have been constructed at the same time as the building, and has always been kept in repair at the expense of Government, the land being let out at a fixed rental from year to year. For the last two years the land has not been rented out in consequence of the Commanding Officer having objected, on sanitary grounds, to any cultivation being carried on within the cantonment limits.

3. It appears from a communication received from the Superintending Engineer's office that in 1864 a sum of Rupees 105 was expended in repairing the well and fixing a picottah to it.

4. The wells (two) in the Chingleput Taluk are situated in the villages named in the margin. That at Kadoombady is stated to have been built some thirty years ago by Government at the request of the ryots, and the records of the Taluk office show that a sum of Rupees 169-4-0 was spent in the repair of this well in the years 1855 and 1864.

Kadoombady.
Kalambakam.

5. It is said to have irrigated about thirty cawnies of land under the tank of that village, whenever the supply in the tank fell short; and that, if it is again put in thorough repair, (the cost of which is estimated by the Tahsildar at Rupees 250), it would supply water to a further area of fifteen cawnies.

6. The well at Kalambakam was constructed some forty years ago at the expense of Government. It has no distinct ayacut of its own; but irrigates two cawnies of nunjah land under the tank of that village, besides being useful to the village community for drinking purposes. The records do not show that any expenditure has been incurred on this well by Government. The Tahsildar says that the well requires immediate repair, and estimates the cost thereof at Rupees 55; but I think it may be left to the villagers to execute any repairs that may be necessary.

7. Of the eleven wells in the Madranticum Taluk, eight are situated in Keelamoor. The Tahsildar says that, the Pymash account containing no information whatever as to the origin of these wells, he presumed them to be the property of Government, and accordingly included them under the head of "Government wells."

8. He states, however, that all these wells are completely out of repair and may very well be given up, the land under them, amounting to acres 19-9-6, assessed at Rupees 56-13-4, being transferred to the head "Dry" and assessed at the first class punjah rate of the village. I beg to recommend the adoption of the course proposed by the Tahsildar, more especially as there is no record of any expenditure having been ever incurred by Government in the repair of these wells.

9. Of the remaining three wells, two are in the village of Colyalam and one at Vennamangalam. Those at Colyalam are entered in the Pymash accounts as Government wells, but the records show no trace of any expenditure having been incurred by Government on them. Both the wells are within the high-water line of the tank of the village, and, at the spot where they are situated, water is said to stand to the depth of three yards when the tank is full. The Tahsildar states that the wells are quite useless for purposes of irrigation. I, therefore, recommend that they be abandoned, and the lands under them, acres 7-33-3, assessed at Rupees 44-8-11, transferred to the head of "Punjah" and assessed at the highest punjah rate of the district.

10. As regards the one well at Vennamangalam, the Tahsildar states that there is nothing on record to show whether it is a private or a Government well, or whether any expense has

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ever been incurred by Government in its repair. The Tahsildar further says that it is now out of repair, and that the land under it, namely, acres 0-16-5, assessed at Rupees 1-1-11, has been lying waste for some years.

11. The wells in the Trivellore Taluk are situated in the villages of Agaram and Siyananjery. That at Agaram appears to have been sunk by the shrotriemdar long before the shrotriem had reverted to Government. It seems to have been kept in repair by the ryots themselves. Since the date when the return of private and Government wells was submitted to the Board, this well has been treated as a private well, and the land under acres 5-38-13, assessed at Rupees 29-6-2, transferred to the head of "Punjah" by the Special Deputy Collector, who was deputed to revise the Manavary rates in this district.

12. The well at Siyananjery was constructed by the Zemindar when the village was held under permanent settlement.

13. In the Pymash accounts it is entered as a Government well, though no expenditure seems to have been incurred by Government in keeping the well in repair.

14. The Tahsildar says that it is in good order at present, and the ayacut under it is acres 14-28-9, assessed at Rupees 88-8-0.

15. From the foregoing explanation it will be seen that the only wells that need be maintained in repair at the expense of Government are those situated in Poonamallee, Kadoombady, and Siyananjery.

Submitted to Government with reference to Government Order, dated 17th March 1869, No. 723.

2. In this letter the Acting Collector reports on the condition, etc., of the sixteen wells said to have been constructed at Government expense in the Chingleput District. Of these sixteen wells, it appears that only three are considered worth keeping up at Government expense. One at Kadoombady, in the Chingleput Taluk, requires repairs to the extent of 250 Rupees; but by its means thirty cawnies of land are watered when the tank fails, and it is stated that fifteen additional cawnies may be irrigated from it if it is repaired. A second at Poonamallee was put in repair in 1864; but it is now disused, as the Military authorities object to irrigation in the cantonment.

3. The third at Siyananjery, in Trivellore, is said to be in good order, and to irrigate fourteen cawnies, assessed at 88 Rupees. The remaining wells are either out of use or are kept in order by the villagers, and the Acting Collector considers they may properly be given over to the villagers and the land assessed at the highest *punjah* rates. So far as can be gathered from Mr. Blair's letter, the lands under the wells proposed to be abandoned are about 32 acres in extent, assessed at Rupees 137-8-0; he does not give the assessment which will be due on them when transferred to punjah. The loss, however, will be very trifling in amount, and the Board recommend that the Acting Collector's proposals be sanctioned. They also concur with him in thinking it desirable to retain the remaining three wells under Government control.

Order thereon, 26th August 1870, No. 1325.

The Right Honourable the Governor in Council concurs with the Board of Revenue in considering that thirteen of the sixteen wells referred to in the foregoing papers should be made over to the holders of the lands irrigated by them, the assessment of the lands being fixed at the highest dry rate of the village. The Acting Collector is accordingly authorized to adopt this course, the financial result being incorporated in the report on the general measure which is about to be submitted.

2. The remaining three wells should be included in the Public Works Department's list of Government irrigation works, and measures should be taken for the execution of the necessary repairs.

(True Extract.)

(Signed) H. E. STOKES,

Under-Secretary to Government.

SEASON REPORT.

REMARKS ON THE SEASON.

NORTHERN SECTION.—The rainfall was tolerably good in Ganjam, Vizagapatam, Kistna, and Nellore, and in the two former districts was more plentiful than in the preceding month. In Godavery, however, the rainfall was both scanty and partial.

Ganjam.—In Ganjam, *paddy* was still being transplanted. The standing dry crops were in good condition, and *gingelly* was being cut in a few localities. The Chicacole and Ganjam rivers were in fresh, and tanks and channels received supplies of water.

Vizagapatam.—In Vizagapatam, the transplantation of *paddy* and the harvesting of *guntalu*, *gingelly*, *corralu*, and *raggy* were progressing.

Godavery.—Tanks in the Godavery District held inadequate supplies owing to the scanty rainfall, and the further cultivation of wet grains under them was retarded. The standing dry and wet crops also were in an indifferent state from the same cause. Under channels, however, the case was otherwise, and the transplanted *paddy* crops were thriving. A few of the early dry grains were harvested, but the out-turn was not very satisfactory.

Kistna.—The sudden and heavy freshes in the Kistna river swept away several thatched and tiled houses in the Bandur and Repally Taluks, and completely destroyed the standing early crops. The progress made in cultivation, except in regard to *paddy*, was comparatively poor, and the condition of standing crops was far from promising in the Bandur, Sattanapilly, and Vinuconda Taluks.

Nellore.—Ploughing had still not ceased in Nellore. A large number of grains were under cultivation, and the standing crops generally were thriving. *Indigo* and *potti nallavari* were cut in a few taluks.

Prices rose in Ganjam, Vizagapatam, and Godavery. In the other districts the prices of the majority of the grains remained stationary.

Nellore alone was free from cholera. It was in existence in the other districts, and was most virulent in Ganjam, where 121 persons fell victims to it. Fever was, more or less, generally prevalent

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and small-pox was confined to Godavery, Kistna, and Nellore.

Cattle were not free from disease.

Ceded Districts.—The rainfall was general, and, in parts of the Kurnool District, was excessively heavy.

Cuddapah.—Tanks received unequal supplies in Cuddapah. *Paddy, cotton,* and some of the dry grains were cultivated, and preparations for a further cultivation of the same were being made. The standing crops were generally thriving. *Chennangi, paddy, indigo, sajja, korra,* and *cholum* were harvested, and their out-turn was three-fourths of a full yield.

Bellary.—In Bellary, agricultural operations were confined to gathering the special products—*cocoanuts* and *arecanuts*—and the sowing of the usual grains.

Kurnool.—The Irrigation Company's canal in Kurnool breached in several places from the excess of rain, and there is little hope of irrigation by its means for the current season. *Paddy, korra,* and *cotton* were sown, and *indigo* was harvested.

Prices fluctuated in Cuddapah and remained almost stationary in Kurnool, while in Bellary they declined in some instances.

There was no cholera, and the public health of the section was not affected by the existence of fever and small-pox in a few localities.

Cattle suffered slightly from disease in Bellary and Kurnool. A few cases were personally treated by Dr. Thacker in the former district with partial success.

East Centre.—The rainfall in this section was general and somewhat copious.

Chingleput.—In Chingleput, fair progress was made in wet cultivation; dry cultivation, however, was impeded by the intermittent fall of rain. *Indigo, gingelly oil seed, cumboo, kar paddy,* and *raggy* were harvested to a small extent.

The report from North Arcot has not been received as yet.

South Arcot.—The rivers Pennair and Vellar were in fresh during the month. Tanks received considerable supplies, and an extensive cultivation of both dry and wet grains was in progress.

There was a slight fluctuation in the prices in Chingleput and South Arcot.

Public health was good. Cholera, fever, and guinea-worm existed in parts of the South Arcot District, but were only of a mild type.

Cattle were free from disease in Chingleput, but suffered from *veckai* in the northern section of South Arcot.

Cauvery.—Copious and timely rain fell in this section.

Tanjore.—Ample freshes came down the rivers in Tanjore. The cultivation of *kadupukar, samba, cumboo, raggy,* and *cholum* were progressing.

Trichinopoly.—In Trichinopoly, tanks received good supplies. Irrigating channels likewise were in full flow, in consequence of copious freshes in the rivers. *Kar, samba paddy, sugarcane,* and some dry grains were cultivated, and the crops looked healthy. *Valem paddy* and *indigo* were being harvested in a few localities.

Prices were stationary.

Public health was generally good. Cholera, fever, and small-pox prevailed in a few localities in Tanjore.

There was no cattle disease.

Southern Section.—The rainfall was scanty in Tinnevelly. In Madura it was more abundant, but unequally distributed.

Madura.—The aspect of things improved in Madura. Tanks received moderate supplies; the cultivation of dry grains and the transplantation of *paddy* were progressing, and the standing crops were in good condition. *Cotton* and *indigo* plants were thriving.

Tinnevelly.—*Kar* cultivation in Tinnevelly was contracted owing to the scarcity of water. *Cumboo, varagoo,* and *dholl* were sown in parts of the district.

Prices declined in Madura and remained stationary in Tinnevelly.

Cholera broke out again in Tinnevelly and lingered about the spots it had visited before; but neither in this district nor in Madura, where also it existed, was it attended with any serious results.

West Centre.—The rainfall was good on the Neilgherries and over the greater part of the Coimbatore and Salem Districts.

Coimbatore.—Dry lands in Coimbatore, which had lain waste up to the preceding month, were brought under cultivation. The crops already sown, including garden products, were in good condition. The transplantation of *paddy* under the Cauvery, Amaravathy, Bhowany, and Alyar, was progressing. Under the tanks fed by the Noyel river, dry cultivation supplanted *nunjah* cultivation owing to inadequacy in the water supply.

Neilgherries.—On the Neilgherries, *koraly, samai, raggy, ganjay, wheat,* and *keeray* were in good condition; *coffee* was blossoming.

Salem.—Tanks in Salem, with only a few exceptions, received supplies sufficient to last for two months. Considerable progress was made in cultivating dry and wet grains, and the standing crops fared well, except in the Uttengiri and Ahtoor Taluks, where they suffered some injury from the absence of timely rains. *Cumboo, gingelly oil seeds, cholum, samai,* and *paddy* were harvested in a few taluks. Very little *cotton* was picked during the month.

Prices were stationary in Salem. They had fallen slightly in Coimbatore.

Fever and cholera affected public health in Salem and Coimbatore; no deaths, however, are reported. The sanitary condition of the Neilgherries was good.

Cattle suffered from disease in parts of Salem.

West.—Rain fell in this section, but was more copious, steady, and seasonable in South Canara.

South Canara.—The standing crops in South Canara were in good condition, and in the Uppinangadi Taluk were also ready for the sickle.

Malabar.—The harvesting of the first or *kavi* crop in Malabar commenced, and the yield promised to be a fair one. The cultivation of the second or *magaram* crop was progressing, notwithstanding that in a few taluks insufficient rains had slightly impeded it.

Prices fell in South Canara in the absence of demand for exportation. In Malabar they were almost stationary.

Fever and small-pox in South Canara, and cholera and dysentery in Malabar, slightly affected public health.

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Average Bazaar Prices of Grain and Salt per Madras Garce, and Rain Report of all the Districts of the Madras Presidency, for the Month of August 1870, *Fusly* 1280.

DISTRICTS.		Prices of Grain and Sea Salt.												Rainfall.				
		2nd sort Rice.		2nd sort Paddy.		Cholum.		Raggy.		Horse Gram.		Sea Salt		Northern Section.	Southern Section.	Eastern Section.	Western Section.	Average.
		Fusly		Fusly		Fusly		Fusly		Fusly		Fusly						
		1279	1280	1279	1280	1279	1280	1279	1280	1279	1280	1279	1280					
		Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Rs.	Ins.	Ins.	Ins.	Ins.	Ins.
Northern Section.	Ganjam.........	314	284	129	114	235	195	181	136	239	191	277	316	5·20	6·50	5·50	7·80	6·25
	Vizagapatam..	409	315	171	132	224	178	224	162	244	181	279	318	6·70	2·90	6·70	1·85	4·53
	Godavery.......	290	236	134	106	162	128	164	122	210	170	246	277	1·42	4·52	2·16	3·14	2·81
	Kistna...........	363	332	164	147	184	203	171	170	267	215	294	360	4·10	2·90	6·35	3·07	4·10
	Nellore	364	326	171	152	154	197	140	163	244	221	262	324	4·36	4·93	3·44	2·61	3·83
Ceded Districts.	Cuddapah......	421	419	199	185	181	210	168	222	211	235	315	355	5·20	6·40	7·57	7·69	6·71
	Bellary...... ...	363	377	148	158	121	170	118	147	160	207	381	449	6·92	3·02	7·53	3·55	5·25
	Kurnool..... .	419	413	184	188	155	197	154	179	233	252	330	366	7·72	6·01	6·19	8·80	7·18
East Centre.	Madras..........				The District Return has not been received.													
	Chingleput.....	474	370	216	198	290	250	258	216	301	258	267	295	6·45	2·10	5·14	5·58	4·82
	North Arcot...				The District Return has not been received.													
	South Arcot...	434	293	195	132	288	143	235	150	241	179	276	325	8·79	7·77	9·22	9·12	8·72
Cauvery.	Tanjore.........	389	254	182	124	240	152	192	128	258	197	254	296	11·12	6·80	5·12	4·20	6·81
	Trichinopoly..	418	309	199	144	204	154	206	152	228	170	308	321	6·83	10·78	6·20	4·40	7·05
Southern Section.	Madura.........	442	344	212	161	184	155	214	165	197	174	291	315	8·33	6·05	4·70	2·91	5·50
	Tinnevelly.. ..	448	432	212	198	234	240	216	199	229	232	291	333	1·57	0·15	0·26	0·25	0·56
West Centre.	Coimbatore ...	475	405	236	200	281	239	230	195	254	195	349	383	4·95	2·13	4·43	0·50	3·00
	Neilgherries ..	711	533	...	...	320	320	320	267	320	246	533	457	...	...	3·03	6·33	4·63
	Salem...........	406	330	186	150	214	160	183	145	196	148	297	339	4·62	5·82	5·70	2·87	4·75
West......	South Canara.	433	372	188	157	...	...	256	241	341	262	254	286	20·00	20·70	19·10	20·50	20·07
	Malabar.	453	393	202	184	...	...	194	174	306	282	294	346	8·74	7·10	8·19	9·15	8·27

Statement of Cotton and Indigo Cultivation with their Market Prices for the Month of August 1870, *Fusly* 1280.

	DISTRICTS.	Cotton.				Market rate of cleaned Cotton per Candy of 500 lbs.	Indigo.				Market rate of Cake Indigo per Maund of 25 lbs.
		Fusly 1279.		Fusly 1280.			Fusly 1279.		Fusly 1280.		
		Extent.	Assessment.	Extent.	Assessment.		Extent.	Assessment.	Extent.	Assessment.	
	1	2	3	4	5	6	7	8	9	10	11
		Acres.	Rs.	Acres.	Rs.	Rs.	Acres.	Rs.	Acres.	Rs.	Rs.
1	Ganjam ...	5,969	11,799	6,041	11,526	165	30	30	3	2	70
2	Vizagapatam ...	8,328	11,873	4,163	9,847	157	305	1,425	1,868	12,494	47
3	Godavery ...	240	711	170	596	144	413	1,272	518	1,422	63
4	Kistna ...	10,687	10,420	9,893	8,445	117	12,981	24,538	27,098	47,779	48
5	Nellore ...	4,670	4,654	3,709	4,026	157	24,704	54,984	29,111	59,232	42
6	Cuddapah ...	9,054	5,682	6,142	5,248	100 to 160	23,267	43,127	10,415	49,856	40 to 56
7	Bellary ...	12,956	9,919	28,517	19,985	127	7,243	12,829	5,705	9,330	60
8	Kurnool ...	31,156	27,332	28,314	22,533	118	39,996	78,560	50,555	83,182	49
9	Madras ...			The District Return has not been received.							
10	Chingleput ...	......	......	......	......	......	2,680	9,191	6,158	15,238	45
11	North Arcot ...			The District Return has not been received.							
12	South Arcot ...	318	604	1,487	3,049	121	21,947	43,312	55,563	1,06,071	42
13	Tanjore ...	302	350	1,940	2,416	146	204	261	1,033	2,196	10
14	Trichinopoly ...	977	1,039	332	197	123	81	262	287	674	14
15	Madura ...	2,350	3,528	3,350	4,825	100	18	57	20	39	40
16	Tinnevelly ...	1,663	962	1,452	699	115	29	63	33	57	31
17	Coimbatore ...	26,602	22,787	33,039	31,182	121	......	......	......	......	29
18	Salem ...	4,966	7,285	5,250	7,545	197	853	4,352	1,141	7,794	36
	Total...	1,20,238	1,18,945	1,83,799	1,32,119	......	1,34,931	2,73,763	1,80,503	3,95,366	......

Revenue Board Office,
Madras, 21*st September* 1870.

(Signed) J. GROSE,
Secretary.

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MISCELLANEOUS.

THE STANDARD OF LIVING IN INDIA.

It is now many years since we first made an attempt to ascertain the pressure of the land revenue upon the soil by an approximate estimate of the whole agricultural produce of the country. In forming these estimates, we have always assumed the consumption of food grains in the country to average about a seer (2 lbs.) per head of population per day. This estimate is objected to as excessive. The *Pioneer* believes that "among "the mass of the population, the classes who get "as much to eat as they want and no more, the "average daily consumption of grain of an adult "male is about three quarters of a seer, that of an "adult female half a seer, that of children a "quarter of a seer. The richer classes, no doubt, "eat more than this in quantity, but they do not "eat much more grain." On the whole, our contemporary believes the average he has given to be "near the mark."

The *Indian Daily Examiner* believes this estimate to be too low, and affirms that in the "part of the "country with which it is best acquainted, (and it "is a part in which the people are rather badly off "than otherwise,) the common allowance of rice "and dholl for an adult male is fourteen chittacks "(28 ounces) per diem. We are also strongly "inclined to think that the three children may "be fairly put down for at least a seer between "them."

A private correspondent in the North-West Provinces also expresses to us his belief that our estimate of 2 lbs. per head per day is too high, and says "it is generally held in the North-West that "the average consumption of grain per head of "population is six maunds or 492 lbs. a year." On the other hand, earlier Indian writers confirm our estimate of 2 lbs. per head. Mr. Colebrook, in his *Husbandry of Bengal*, "reckons the annual consumption of grain for a man at nine maunds (720 lbs.) a head besides cattle," (Galloway, p. 247); and this, if we remember rightly, is Sir Arthur Cotton's estimate. Mr. Maltby (Madras Board of Revenue, 1854) quotes the Collector of Bellary as authority for the statement that "a seer of cholum, the food of the great body of the people in Bellary and the adjoining taluks," is the ordinary consumption of a man per day. The Madras Famine Report [1866] estimates the consumption of the rice-eating population of that Presidency at 560 lbs. per head per year, while Mr. Fischer, of the Shevagungah Estate, in the same Presidency, considers an allowance of 6 lbs. of grain per day as sufficient for a family of five persons. Upon the whole, we are persuaded our estimate of 2 lbs. per head per day is the right one *for the purposes* of this inquiry, and we shall give our reasons for the belief in detail further on. In any attempt to define the standard of living in India it is necessary to remember that it differs in different parts of the country. Thus in the Central Provinces (Belaspore) we are told that "the ordinary practice with "all classes is to have three meals a day, rice "and dholl at midday, rice and vegetables cooked "with ghee in the evening, and rice gruel in the "morning before commencing work. This rice is "called bhassee, being simply the remains of the "night repast filled up with water and taken cold. "Some men are said to get through 3 lbs. of rice "per day. The castes who eat fish and flesh have, "of course, a greater change of diet. On the "whole, the great body of the people may be said "to live comfortably and well; and, as regards "quantity, will probably never enjoy greater "abundance." (Chisholm's Reports, 1866.)

In Nagpore, "most of the Brahmins and the trading and artizan classes take two meals a day, one at about 8 o'clock in the morning, and the other in the evening. The field labourers, as in Belaspore, take three—one in the early morning, one at midday, and one at sunset. All classes, except Brahmins, Marwarees, and a few others, eat animal food when they can get it. All the Mahratta tribes eat fowls and eggs—the food held in so much abhorrence by all the higher castes in Hindustan. With the same exceptions all the people use spirituous liquor distilled from the fruit of the Mohwa tree." (Ross' Report, 1869.)

Where a rice diet, bulky and innutritious, is the staple food of the country, as in Bengal and Madras, it is the practice of the people to take at least two meals a day. In the North-West Provinces, on the other hand, where the staple food is wheat, "the rich Bunnea and Banker, as well as the poor "day labourer, content themselves with a little "parched gram during the day and one meal in the "evening.

"From one year's end to another the diet is the "same unleavened flour cakes, parched grain, and "pulse, or the plain wheaten cake is changed for "cakes composed of wheat and barley flour, or

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"wheat and gram flour mixed; or these grains, "roughly ground, are mixed up with buttermilk; "or, when green on the stalk, boiled into a mess "of porridge. Several kinds of vegetable, fruits, "and berries, too, come in their season to relieve "the sameness of their diet, and aid in preventing "the occurrence of dyspepsia and its attendant "evils."

An analysis of the chief articles of Indian food shows the necessity of supplementing the diet, where its staple is rice, with either meat or fish:—

Proportion of Albuminous and other elements in 100 parts of each article of Diet.

Articles of Diet.	Albuminments.	Starchy and oily matter, &c., not albuminous.	Water.	Name of Analyst.
Wheat	14·67	71·65	13·68	Horsford.
Indian corn	12·8	74·02	13·1	Horsford.
Barley	12·6	72·8	14·0	Horsford.
Field peas (*dholl*) ...	26·69	61·03	12·26	Horsford.
Rice	6·48	80·25	13·26	Horsford.
Vegetable, average of carrots, radishes, and turnips ...	5·86	47·23	46·89	Von Bibra.
Meat (ox flesh)... ...	19·25	3·1	77·20	Payne.
Fish (whiting)	17·05	0·38	82·95	Forbes. Watson.
Bajera and jowar	Proportions almost identical with those found in Indian Corn.			

In this table, Horsford's analysis of the "field pea" is made to do duty for an analysis of dholl and of *gram*, although the nutritive qualities of the latter are believed to be somewhat less than those of field peas. A highly nitrogenous diet, composed of the most nutritious cereals, with a plentiful supply of vegetables, enables the higher castes of India to dispense with meat altogether; but, where rice is the staple food, meat or fish, or a large admixture of *dholl*, becomes indispensable to health. Rations are commonly given in *attah* (flour) instead of grain, and in these cases it is necessary to bear in mind that a pound of attah is equivalent to 21 or 22 ounces of grain. The rations of a Rajpoot soldier are 1½ lbs. of attah (about 2 lbs. of grain) and 2 ounces of dholl per diem. (Tod's Rajasthan, p. 204). The same allowance is made to the troops in the Bhawalpore State according to the last Administration Report.

So much care has been devoted of late years to the dietary scale of Indian jails to make them as close a copy as possible of the food of the people, that they present, we have no doubt, a very close approximation to the general standard of living in the country. In Bengal the staple food of the people is rice, of which two crops are produced annually. The first harvest is gathered about the end of August; the second and greater one in December. A variety of grain and pulse is also sown, and the harvest reaped from February to April. Fish is so plentiful as to be at times within the reach of the poorest of the people, and there is a universal and vast consumption of vegetable oils. The dietary scale of the Bengal jails for labouring prisoners is as follows:—

Rice	...	140 oz. per week.
Dholl	...	28 " "
Vegetables	...	42 " "
Condiments	...	3½ " "
Meat (or fish)	...	16 (to 20) oz. per week.
Oil (mustard, &c.		4⅜ oz. per week.
Salt	...	3½ " "
Firewood	...	lbs.

This scale represents, we imagine, with considerable accuracy, the common diet of the labouring classes in Bengal. No provision is made therein for the luxuries of sugar, tobacco, betel, or pan. Now, this diet cost the jails of Bengal, we are told, upwards of 27 Rupees per head per annum in 1865. The people take two meals a day, and are in number about 40 millions. Travelling upwards, we come to the North-West Provinces with 30 millions of people, whose universal custom it is, whether rich or poor, to take but one meal a day in the evening, a small quantity of parched grain only being eaten about noon. Rice has here given place to *wheat* as the staple food, and the jail dietary is as follows:—

Attah ...Wheat flour	... 40 oz.		
Bajera "	... 48 "		
Jowaree "	... 48 "		
Indian corn flour.	24 "	160 oz. per week.	
Dholl (Cytisus cajan)	... ...	16 " "	
Gram (parched)	... ...	28 " (morning.)	
Vegetables	... ...	24 "	
Ghee and oil (mustard)	... ...	2¼ "	
Chillies (one or more daily)	... ...		
Salt (100 grains per day)	... ...	1⅜ "	
Firewood	... ...	5¼ lbs.	

This scale was adopted in 1864, the improvement consisting chiefly in the variety introduced into the articles of which the *attah* is composed. It represents, we imagine, a somewhat meagre type of the ordinary diet, and is marked by the absence of sugar, goor, tobacco, and other small luxuries in general use in the country. Rice has here disappeared altogether from the common food of the people. The cost of this diet was Rupees 21 per year in 1865, but reached to Rupees 46 in 1869 from the rise in prices generally.

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Still travelling northwards, we come to the Punjab to find the dietary scale as follows :—

Attah	...Wheat flour ⅔ / Barley „ ⅓	140	oz.	per week.
Dholl	... ...	24	„	„
Vegetables	... ...	24	„	„
Condiments	...Garlic. / Turmeric. / Chillies. / Coriander seed / Dhurnia.	3½	„	„
Ghee ...	... ...	1½	„	„
Dhai (whey)	... ...	18	„	„
Meat ...	... ...	5¼	lbs.	„
Firewood	... ...	5¼	„	„

The cost of this dietary in 1865 was 22 Rupees per year, and is now about double that amount. It represents, we imagine, the common standard of living amongst the people of the Punjab, but without luxuries of any kind.

In the Sindh jails the diet is a little more generous, and is as follows :—

Rice	24 oz.			
Attah—Wheat ...	48 „			
Bajera ...	48 „			
Jowaree ...	48 „			
		168	oz.	per week.
Dholl (moong)		12	„	„
Vegetables		48	„	„
Condiments		3½	„	„
Tamarind, or kokum... ...		1⅙	„	„
Ghee		4¾	„	„
Dhai (whey)		70	„	„
Mutton		16	„	„
Salt		3½	„	„
Firewood		8	lbs.	„

We have here a mixed diet of rice and dry grains; but neither sugar, tobacco, betel, or pan, the common luxuries of India, are found in the scale, but it represents otherwise, we imagine, the full ordinary diet of an adult man throughout Sindh.

In the Bombay jails (Rutnagherry) the scale is as follows :—

Rice ...Wheat ...	72 oz.			
Attah ...Bajera ...	48 „			
...	48 „			
		168	oz.	per week.
Dholl (toor and chunna) ...		30	„	„
Vegetables		56	„	„
Condiments (chillies, garlic, &c.)		3½	„	„
Kokum		3½	„	„
Sweet oil		3½	„	„
Fish (many varieties)		13	„	„
Mutton, milk, or ghee		5	„	„
Salt		3½	„	„
Firewood		7	lbs.	„

Although still marked by the same absence of small luxuries, we believe we have here a somewhat favourable representation of the ordinary food of the people. The cost of this diet in 1868 was Rupees 40·407 per head, the prices of all the necessaries of life being considerably higher in Western India than on this side. The jail statistics of the Central Provinces in respect of dietary are so slovenly as to be all but incomprehensible, and present a curious contrast to the general excellence of all official work reported therefrom. As far as we can make out, the dietary scale is as follows :—

Per week.

Attah...(Wheat flour)	140 oz...	or 168 oz. Bajera.	
		„ 168 „ Jowaree.	
		„ 140 „ Rice.	
Dholl ...	... 16 „		Returns uncertain.
Vegetables	... 24 „		
Gram (parched)	... 4 „		
Oil and ghee	... 3 „		
Chillies, condiments	... ...		
Salt ...	... ...		
Firewood ...	... ...		

We doubt if this dietary represents the ordinary standing of living in the Central Provinces. We imagine it is somewhat below that standard generally.

The statistics of Madras are complete, and leave nothing to be desired. The scale is as follows :—

Per week.

Rice	...182 oz.	or 154 oz. Veragoo (warree).
	...	or 168 „ Ragee (natchnee).
	...	or 168 „ Cholum (jowaree).
	...	or 175 „ Cumboo (bajera).
Dholl	... 20 „	
Vegetables	... 18 „	
Tamarind	... 3½ „	(or mango pickle).
Onions	... 3½ „	
*Curry powder.	3½ „	
Garlic	... ⅛ „	
Ghee (or oil)	... 3½ „	or 14 oz. cocoanut.
Buttermilk	... 40 „	or tyre.
Mutton or fish..	15 „	or 7½ oz. saltfish.
Salt	... 7 „	
Firewood	... 14 lbs.	

In looking over these returns it is not the variety, but the sameness, of the food, which is the prominent fact in so vast a continent, comprising nationalities so distinct and so far apart in all other respects. The food of the Punjabee is substantially the same as that of the Bengalee and the Madrassee. The cooking, no doubt, differs widely; but the food, both in quantity and nature, is the same. If we add to these scales the simple luxuries of goor, tobacco, and pan soparee, we embrace almost everything in so far as the masses are concerned. The garden cultivation of India belongs chiefly to the well-to-do classes and the rich.

* *Official Recipe—*

		oz.	dr.
Jail curry powder—	Chillies ...	3	6
	Black pepper ...	1	4
	Coriandar seeds ...	0	6
	Turmeric ...	1	1
	Cummin seed ...	0	6
	Mustard seed ...	0	6
	Vendeum ...	0	

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These dietary scales of the various jails of India show the consumption of cereals to be as follows :

		Per week.
N. W. Provinces...	Attah ...	... 160 oz.
	Gram and dholl ...	44 „
Central Provinces..	Attah ...	... 140 „
	Gram and dholl ...	20 „
Madras ...	... Rice ...	... 182 „
	Dholl ...	... 20 „
Punjab ...	... Attah ...	... 140 „
	Dholl ...	... 24 „
Sindh ...	... Attah ...	... 108 „
	Dholl ...	... 35 „
Bengal ...	... Attah ...	... 70 „
	Rice ...	... 84 „
	Dholl ...	... 14 „

This table contains the consumption of *grain* alone, and, if we estimate 12 ounces of attah to be equivalent to a pound of grain, we shall find the average consumption to be very nearly 2 lbs. per prisoner per day, independently altogether of the allowance of vegetables, meat, buttermilk, condiments, &c. The allowance for European prisoners in Bengal is—

Bread	168 oz. per week.
Meat	112 „ „
Vegetables	112 „ „

or 3½ lbs. of solid food per day, without taking account of milk, tea, sugar, &c. Large as the allowance seems, it is considerably below the dietary scale of other English jails.

In Tasmania, the allowance of a prisoner is 19¼ lbs. of flour and 10½ lbs. of meat per week, or more than 4½ lbs. per day. In the *Statistical Reporter* which accompanies this issue, we have given a record of interesting experiments made in Bengal some years ago as to the quantity of food the people will consume when they can do so without thought of its cost. The spare diet of the Belgian miners has been remarked upon, and yet we are told they eat 2 lbs. of *bread* a day and 1¼ lbs. of vegetables besides other food.

In estimating the average consumption of food grains in India at 2 lbs. per head per day, and basing our calculations thereon for testing the accuracy of the agricultural returns of the provinces, it must be remembered that we made no allowance for the consumption of grain by cattle, nor for the surplus food which in every ordinary year the harvest must be supposed to yield to replenish the food stores of the country, and provide for the loss which takes place from the constant destruction of large quantities through mildew and other causes. Our statement was as follows :—

The Central Provinces not only grow all the food consumed by their own population, but contrive to export about 1,000,000 maunds of food in ordinary seasons. The population of the provinces is 9,000,000, and the average consumption of food grain per head will not be less than 2 lbs. per day. A very simple calculation, therefore, suffices to show that the harvest *must*, at all events, reach 8,000,000,000 lbs. of food, thus :—

People. lbs. days.		
9,000,000 × 2 × 365	=	6,570,000,000
Add 1-4th for seed corn re-placed	=	1,640,000,000
Add 1,000,000 maunds export	=	82,000,000
The harvest must be	=	8,292,000,000

without any allowance for the consumption of cattle. Now, the total acreage under cultivation with food grain in 1867-69 was, we are told,

	Acres.		*Produce.*		*Harvest.*
Rice ...	...2,532,321	×	579	=	1,466,136,180
Wheat...	...3,313,677	×	405	=	1,342,039,055
Other grains	4,197,561	×	440	=	1,846,907,040
				Lbs.	4,655,082,305

The acreage under grain was well ascertained, and, if the produce of 1867-68 was no more than what is recorded, whence did the provinces get their surplus, 3,600,000,000 lbs., of food from?

We are unable, upon the most careful review of this passage, to modify it in the least. If it errs at all, we are persuaded that it does so on the side of moderation. Making every allowance for children, we are still of the opinion that, unless the harvest of the Central Provinces amount to 2 lbs. per head of population with a surplus for seed corn and export, the food reserves would be drawn upon steadily every year. In a country where grain is plentiful, the cattle are largely fed thereon. There is probably no province of India in which milch kine are not so fed. The goat will not give its milk without muth or orrid, and, if we were to draw out the estimate in detail, it would be easy to show that our rough calculation of 2 lbs. per head per day is reasonable in the extreme. We have no desire for a controversial victory; but it is plainly important to apply a simple and efficient test to the returns of our settlement officers.

These jail returns throw considerable light upon the cost of food in India of late years. The *Pioneer* thinks that *eight* rupees per head may be assumed to be the cost of the annual food of the population; and, upon this assumption, estimates the gross annual value of the grain crop of the North-West Provinces at about £25,000,000 sterling. The *Indian Daily Examiner* thinks this too low, and believes "the value of the food consumed "annually by each member of the population to be "10 rather than 8 rupees."

That both estimates are too low is shown conclusively by the jail returns of the country. Our prisons are supplied with food in immense quantities under contract, and it is only reasonable to believe that the actual cost per head in these circumstances is below that of the private consumer, the profits of the retail dealer being engrossed by the jail. But what do these accounts show? Instead of 8 or 10 Rupees per head, they show the cost, at a period long antecedent to the late rise in prices through successive years of drought, to have been as follow :—

Cost of Food per head per Annum.

		Rs.	A.	P.
Punjab Jails,	1865 ...	21	15	2
N. W. Provinces,	„ ...	21	1	6
Bengal,	„ ...	27	1	4
Bombay,	„ ...	40	4	7
Madras,	1868 ...	49	2	4

The *Pioneer* bases its calculations upon a repudiation of "prices now current as abnormal," and assumes that "20 seers per Rupee may be taken as fair. This would give something over 8 Rupees as the value of the annual food of the population per head." What has our contemporary to say to the fact that, with wheat at 33 seers instead

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of 20 per Rupee, the cost in the Punjab jails was 22 Rupees per head in 1865? The contract prices paid in the Punjab in that year and the quantities supplied were—

—	Quantity supplied.	Rate per Rupee.
	Mds. s. c.	Mds. s. c
Wheat, 2nd quality	54,236 28 12	0 33 8
Dholl	9,297 24 14	0 23 3
Meat, free of bone and fat	9,297 29 0	0 7 0
Gram (parched) ...	3,161 26 2	0 25 12
Ghee	605 34 3½	0 2 4
Salt	1,413 26 7¼	0 20 9¾
Condiments, (1 Rupee for 448 prisoners)		
Firewood	33,927 35 10	4 20 5
Vegetables (supplied from jail garden...	....	......

Now, at these rates—which have since been nearly doubled—the cost per head was Rupees 22.

The average net cost of each prisoner in the jails of the North-West Provinces during the year 1868, after deducting a considerable profit made by their labour, was—

	Rs.	A.	P.	
In the Central Jails	46	1	9	per head.
„ Divisional Jails ...	56	10	0	„
„ District Jail	54	13	6	„

and the average contract prices of the food supplied throughout the year was—

Wheat flour... ... ... 15½ seers per Rupee.
Dholl ... ... 11¼ „ „
Gram (parched) ... ... 16⅓ „ „

In view of these statistics taken at the *Pioneer's* own doors, what becomes of its estimate of 8 Rupees per head per year? It must plainly be trebled.

Our contemporary must now, we think, see how greatly mistaken was its estimate of 4th June last of the annual harvest of the North-West Provinces. " Our calculation," it says, " stands thus—

Food of 30,000,000 people ...	£25,000,000
Clothing of do.	„ 1,000,000
Forage crops, garden stuff, and exports	„ 3,000,000
Seed for the next crop	„ 2,500,000
Total...	„ 31,500,000"

Upon this really absurd estimate the land revenue of the Provinces was declared to amount to one-seventh of the gross produce of the land. The cost per head of population in the North-West Provinces for the last two years cannot have been less than 25 to 30 Rupees. Less than that would not have kept soul and body together, while there has simultaneously been an export of produce many millions in excess of our contemporary's estimate. Let the *Pioneer* substitute the following figures for its own estimates, and it will be nearer the mark a good deal:—

Food, 30,000,000 of people, at 20 Rs.	£ 60,000,000
Seed corn, one-seventh of total crop of £70,000,000	„ 10,000,000
Clothing, 2 Rs. per head of population	„ 6,000,000
Forage, pasture, and garden ...	„ 8,000,000
Indigo, sugar, cotton, and other exports	„ 8,000,000
Total...	„ 92,000,000

We have estimated the clothing here at a low figure for a temperate climate like the North-West Provinces. Instead of the land revenue of the provinces being *one-seventh* of the gross produce of the soil, we are reasonably convinced that it is not one-twentieth, as we have repeatedly affirmed.

We have assumed the exports of the North-West Provinces to amount to £8,000,000, a surplus industry of about 2¼ Rupees per head of population. We should think they must be more, but have no means of ascertaining the fact. All the statistical returns of these provinces that we have seen are slovenly in the extreme. Travancore exports are 6 Rupees per head. The average of all India, 2½.—*Indian Economist, 15th October* 1870.

ACT OF THE GOVERNMENT OF INDIA.

The following Act of the Governor-General of India in Council received the assent of His Excellency the Governor-General on the 5th April 1870, and is hereby promulgated for general information:—

ACT No. XVI. OF 1870.

THE INCOME TAX ACT, 1870.

An Act for imposing duties on Income and Profits.

Preamble. For the purpose of imposing duties on income and profits arising from offices, property, professions, and trade; It is hereby enacted as follows:—

PART I.

PRELIMINARY.

Short title. This Act may be called "The Indian Income Tax Act."

Extent of Act. It extends to the whole of British India;

Commencement and continuance of Act. It shall be deemed to have come into operation on the 1st day of April 1870, and it shall cease to be in force on the 31st day of March 1871, except as to taxes and penalties then due and incurred thereunder.

Repeal of Acts. 2. On and from the said 1st day of April 1870, the Acts mentioned in the third schedule hereto shall be deemed to have been, and shall be, repealed to the extent specified therein, except as to taxes due under any of such Acts.

The references made in the Court Fees' Act, Schedule II., to the Indian Income Tax Act, shall be deemed to be made to this Act.

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Interpretation clause.

3. In this Act—unless there be something repugnant in the subject or context—

"Magistrate."

"Magistrate" means any person exercising the powers of a Magistrate, or of a Subordinate Magistrate of the 1st Class, and includes a Magistrate of Police and a Justice of the Peace:

"Company."

"Company" means an Association carrying on business in British India, whose stock or funds is, or are, divided into shares and transferable, whether such Company be incorporated or not, and whether its principal place of business be situate in British India or not:

"Firm."

"Firm" includes a Hindoo undivided family:

"Person."

"Person" includes a firm:

"Defaulter."

"Defaulter" includes a firm making default under this Act:

"Collector."

In the case of any Company, or Municipal or other public Body or Association not being a Company, "Collector" means the Collector of Land Revenue of the place or district at or in which its principal place of business in British India is situate. And, in the case of any person chargeable under this Act, "Collector" means the Collector of Land Revenue of the place or district at or in which such person resides.

Exemptions from Act.

4. Nothing in this Act applies to the pay and allowances of Officers, Warrant Officers, Non-Commissioned Officers and Privates of Her Majesty's Forces, or of Her Majesty's Indian Forces, who are not in civil employment, when such pay and allowances do not exceed 500 Rupees per mensem;

or to any moveable or immoveable property solely employed for, or dedicated to, religious or charitable public purposes.

And no member of a firm, which is for the time being chargeable under this Act, shall, as such, be chargeable under this Act.

Power to exempt from Act.

5. The Governor-General of India in Council may, from time to time, by order, wholly exempt from the operation of this Act the whole or any part of the income and profits of any tribe or class of persons in British India.

The Governor-General of India in Council may revoke any such order.

All orders and revocations made under this section shall be published in the *Gazette of India.*

PART II.

Duties on Offices.

Duties on offices.

6. A duty of 6 Pies for every Rupee shall be levied in respect of every office or employment of profit in British India under Government, or under a Company, or a Municipal or other public Body or Association not being a Company, and upon every salary, annuity, or pension paid in British India by Government, or by a Company, or by a Municipal or other public Body or Association, not being a Company, to any person residing in British India or serving on board a ship trading to, and from, British Indian ports, whether on account of himself or another person.

Exemption of incomes less than Rupees 41-10-8 per mensem.

7. No income, amounting to less than 41 Rupees, 10 Annas, and 8 Pies per mensem, shall be chargeable under this Part.

Provision as to Government officials.

8. In the case of every person holding any paid office, employment, or commission under Her Majesty or under the Government of India, or under any local Government, or receiving any annuity or pension from Her Majesty or any such Government,

the duty to which he is liable under this Part shall be deducted from his pay, annuity, or pension at the time of payment by the Examiner of Claims or other proper officer, and shall be deemed to be a tax paid under this Act.

Provision as to servants of Companies and Municipalities.

9. In the case of every person holding a paid employment under, or receiving any annuity or pension from, any Company, or any Municipal or other public Body or Association not being a Company, the duty to which he is liable under this Part shall be deducted from his pay, annuity, or pension, at the time of payment by the Treasurer or other officer whose duty it is to make such payments, and shall be deemed to be a tax payable under this Act.

Payment to Government.

Every such Treasurer or other officer shall, as soon as may be after making such deductions, pay to the credit of the Government of India, or as such Government shall, from time to time, direct, the amount of such deductions, and shall be answerable to such Government for such payment.

Indemnity.

Every Company, public Body, or Association, Treasurer, or other officer as aforesaid, is hereby indemnified for all deductions and payments made in pursuance of this section.

Annual return by Treasurer, &c.

The Treasurer, Secretary, or principal Agent or Manager of every such Company and public Body or Association, shall prepare, and, on or before the 30th day of April in this year, deliver to the Collector, in such form as may be prescribed by the Governor-General of India in Council, a return in writing showing the names of every person holding, at the date of the said return, a paid employment under, or receiving a pension or annuity from, the Company, or Body, or Association whose pay, or pension, or annuity, as such, amounts to 41 Rupees, 10 Annas, and 8 Pies per mensem or upwards, together with the salaries, annuities, or pensions payable by the Company or public Body or Association to all such persons respectively.

Difference between duty under this Act for April 1870 and duty under Act IX of 1869.

10. Whenever the full duty leviable under this Act in April 1870 is not deducted at the time of payment in that month from the pay, annuity, or pension chargeable therewith, the deficiency shall be deducted from such pay, annuity, or pension at some subsequent time of payment.

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PART III.

Companies.

Shipping Companies.

11. The Treasurer, Secretary, or principal Agent or Manager in India of every Company, shall, in the case of a Shipping Company trading between British India and any other country, pay to Government, in respect of one moiety of the net profits made by each of the ships of such Company engaged in such trade, during the year ending on the day on which the Company's accounts shall have been last made up, the duty of 6 Pies in the Rupee,

Other Companies.

and, in the case of every other Company, pay to Government, in respect of the whole of the net profits made in British India by such Company during the year ending on the day on which the Company's account shall have been last made up, the duty of 6 Pies in the Rupee,

Statement of result of accounts.

and shall prepare, and, on or before the 30th day of April in this year, deliver to the Collector a statement in writing signed by him showing the result of such accounts (if any).

Annual return of net profits.

In the case of any Company where no such accounts as are mentioned in this section have been made up within the year ending on the 31st day of March 1870, the Treasurer, Secretary, or principal Agent or Manager of such Company shall prepare, and, on or before the 30th day of April in this year, deliver to the Collector, a return in writing signed by him and stating the net profits made by such ships or by the Company (as the case may be) during the year ending on the said 31st day of March.

Indemnity.

Every such Treasurer, Secretary, or principal Agent or Manager is hereby indemnified for all payments made in pursuance of this section.

PART IV.

Duties on all other Income and Profits.

Duty on income not charged under Part II. or Part III.

12. A yearly duty in accordance with the first schedule to this Act annexed shall be levied upon all income and profits accruing and arising in British India and not chargeable under Part II. or Part III. of this Act.

Trustees, guardians, and committees of incapacitated persons to be charged.

13. The trustee, guardian, curator, or committee of any infant, married woman subject to the law of England, lunatic, or idiot, and having the control of the property of such infant, married woman, lunatic, or idiot, whether such infant, married woman, lunatic, or idiot resides in British India or not, shall, if the infant, married woman, lunatic, or idiot be chargeable under this Part, be chargeable with the said duty in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic or idiot if he were capable of acting for himself.

Non-residents charged in names of their agents.

Any person not resident in British India, whether a subject of Her Majesty or not, being in receipt, through an agent, of any income or profits chargeable under this Part, shall be chargeable in the name of such agent in the like manner and to the like amount as he would be charged if resident in British India and in actual receipt of such income or profits.

Trustees or agents of persons incapacitated or non-resident to furnish statements of income or profits with declaration.

14. Every such trustee, guardian, curator, committee, or agent shall, when required by the Collector, deliver a statement, signed by him, of the amount of the income or profits in respect whereof he is chargeable on account of such infant, married woman, lunatic, idiot, or non-resident, together with a declaration of the truth of the statement.

Receiver or Manager. Court of Wards and the Administrators-General.

15. Receivers or managers appointed by any Court in India, the Courts of Wards, the Administrators-General of Bengal, Madras, and Bombay, and the Official Trustees, shall be chargeable under this Act in respect of all income and profits officially in their possession or under their control.

Trustees, agents, receivers, &c., may retain duties charged on them.

16. When any trustee, guardian, curator or committee, or agent is assessed under this Act in such capacity; or when any receiver appointed by any Court, Court of Wards, Administrator-General, or Official Trustee, is assessed under this Act in respect of the income and profits officially received by him;

every person and Court so assessed may, from time to time, out of the money coming to his or its possession as such trustee, guardian, curator, committee, or agent, or as such receiver, Court of Wards, Administrator-General, or Official Trustee, retain so much as shall be sufficient to pay the amount of the assessment.

Indemnity.

Every such person and Court is hereby indemnified for every retention and payment made in pursuance of this Act.

Notice requiring returns.

17. In the case of every person chargeable under this Part whose annual income or profits is, or are, in the Collector's opinion, 2,000 Rupees or upwards, the Collector shall,

and, in the case of every other person so chargeable,

the Collector may,

serve a notice on him requiring him to fill in a return of his income and profits, or of the income and profits in respect whereof he is chargeable, in the form to be prescribed by the Governor-General of India in Council, and specifying the day by which the return is to be made, and the place of the Collector's office at which the return is to be made.

Every such notice shall be signed by the Collector.

The form of the return shall accompany the notice.

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18. Every person on whom such notice is served shall send to, or deliver at, the Collector's office the return duly filled in and signed by him.

Return how made.

A declaration shall be added by such person at the foot of the return that the profits or income stated therein are truly estimated on all the sources therein mentioned.

19. Every person, when required so to do by a notice in the form to be prescribed by the said Governor-General in Council, shall, within the period mentioned in such notice, prepare and deliver to the Collector a list containing, to the best of his belief, the name of every lodger or inmate resident in his dwelling-house, and of any other persons, receiving salary or emoluments amounting to 41 Rupees, 10 Annas, and 8 Pies per mensem or upwards, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who has any ordinary place of residence elsewhere, at which he is liable, under this Act, to be assessed, and who desires to be so assessed at such place.

Lists of lodgers and employés.

Such lists shall be signed by the persons respectively delivering the same, and shall be prepared in the form to be prescribed as aforesaid.

20. The Collector shall, from time to time, determine what persons are chargeable under this Part, and the amount that every such person shall be assessed in accordance with the said Schedule; and, in making such assessment, income exempted under Section 7 shall be treated as chargeable under this Part.

Collector to determine persons chargeable.

21. In the case of a person for the first time becoming chargeable under this Part within the year of assessment, the computation shall be made according to an average of his income and profits for such period as the Collector shall, under the circumstances, direct.

Computation when assessee becomes chargeable within year.

22. The Collector shall cause a notice to be served on every person chargeable under this Part, stating—

Notice to persons chargeable.

(1.) The name and the profession, trade, or other source of the income or profits of such person, or of the income and profits in respect of which he is chargeable:

(2.) The year, or portion of the year, for which the duty is to be paid:

(3.) The place or places, district or districts, where such income or profits accrues or arise:

(4.) The amount to be paid;

and requiring him, within fifteen days from the date of the service, to pay such amount.

23. Such amount shall be paid to the Collector, who shall grant a receipt for such payment to the person making the same:

Officer to grant receipts.

Provided that, if such income or profits accrues or arise at or in more than one place or district, the receipt shall be granted and payment made by, and to, the Collector for the place or district at or in which the person mentioned in the notice resides, or (in the case of a firm) at or in which its principal place of business in British India is situate.

Every such receipt shall be signed by the Collector granting it, or by such other officer as he shall from time to time empower in this behalf, and such signature shall be judicially noticed.

24. Every such receipt shall specify—

Contents of receipt.

(1.) The name and source or sources of the income or profits of the person by or on whose behalf the duty is paid:

(2.) The year or portion of the year for which the duty is paid:

(3.) The amount paid, and the date of payment; and

(4.) The place or places, district or districts, where the income or profits accrues or arise; and shall be admissible as *primâ facie* proof of all matters contained therein.

25. Any person objecting to the amount at which he is assessed, or denying his liability to be assessed, under this Part, may, within the period mentioned in the said notice, or, if the Collector is satisfied that the objector has not received such notice, then, at any time within one month from the expiration of such period, apply, by petition, to the Collector, in order to establish his right to have the assessment reduced or cancelled.

Petition against assessment.

Provided that no person who shall have been served with a notice under Section 17 shall be entitled to apply by petition under this section unless he shall have made the return required in such notice on or before the day therein mentioned, or unless he shall satisfy the Collector that he had a sufficient excuse for not making such return.

Proviso.

The petition shall be in the form contained in the second schedule to this Act annexed, or as near thereto as circumstances admit, and the statements therein contained shall be verified by the petitioner or some other competent person in manner required by law for the verification of plaints.

Form and verification of petition.

26. The Collector shall fix a day for the hearing of the petition, and, on the day so fixed, or on the day (if any) to which he has adjourned such hearing, shall hear such petiton and pass his order thereon.

Hearing of petition.

Such order may be in favour of the petitioner, or it may simply reject the petition, or it may reject the petition and enhance the petitioner's assessment to an amount to be specified in the order.

If the order be in favour of the petitioner, the Collector shall at once refund the fee on the petition.

If the order simply reject the petition or reject the petition and enhance the petitioner's assessment, the petitioner shall, within one week from the passing of the order, pay the amount mentioned in the said notice or in the order of enhancement (as the case may be).

27. Any person dissatisfied with any order under Section 26 may, within fifteen days from the date thereof, on payment of the sum in which he was assessed,

Appeal from order on petition.

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or to which his assessment was enhanced, present a petition of appeal to the Commissioner of Revenue of the division, whose decision upon such appeal shall be final.

Documents to accompany appeal.

Every petition presented under this section shall be accompanied by a copy of the petition to the Collector, a copy of the Collector's order thereon, and all other documents (if any) connected with the case.

Neither of such copies shall be chargeable under the Court Fees' Act.

Return of fees and excess.

When the decision on such appeal is in favour of the petitioner, the value of the fees on his petition to the Collector and on his petition of appeal, together with the excess paid by him, or (when the decision is that the petitioner is not chargeable under this Act), the whole sum so paid shall at once be refunded.

Power to summon persons to give necessary information.

28. The Collector or Commissioner may summon any person whom he thinks able to give evidence for the purpose of enabling him to determine how the petitioner should be assessed, and may examine on oath the person so summoned and the petitioner, and may require each of them to produce any documents in his possession or power relating to the sources of the petitioner's income or profits accruing or arising in British India.

Power to issue fresh notice.

29. Whenever the Collector has reason to believe that, in assessing any person under this Act, any source of income or profits not specified in the receipt granted to him under Section 23 has been overlooked, which source, if it had then been known to exist, would have increased the assessment, the Collector may cause a further notice to be served on such person stating the amount to be paid in respect of such source, and the provisions contained in Sections 22 to 28 (both inclusive) shall apply to such notice and regulate the procedure thereunder.

PART V.

Penalties.

Treasurers, &c., failing to make payments or deliver returns.

Trustees, &c., failing to deliver statements or declarations.

30. Every Treasurer, Secretary, or principal Agent or Manager failing to make any payment or to prepare and deliver any return required by Section 9,

or failing to make any payment or to prepare and deliver any statement or return required by Section 11,

and every trustee, guardian, curator, committee, or agent failing to deliver any statements or declaration required by Section 14,

shall, for every day during which such default continues, be fined, on conviction before a Magistrate, 10 Rupees.

The Commissioner of the Division shall have power to remit wholly or in part any penalty imposed under this section.

Failure to pay amount of assessment.

31. If any person served with notice under Section 22 does not, within the period specified in the said notice, pay the amount required thereby, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such notice: Provided that he has not presented a petition under Section 25.

If any such person presents a petition under Section 25 and does not, within one week from the passing of the order thereon, pay the amount, if any, required by such order, he shall, on conviction before a Magistrate, be fined twice the amount mentioned in such order.

Grant of receipt on recovery of fine.

On the recovery of the fine from the person so convicted, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the fine, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

False statements.

32. Whoever makes a statement in any declaration or list, made or delivered, under Section 18 or 19, which is false, and which he either knows or believes to be false, or does not believe to be true, shall be deemed to have committed the offence described in Section 117 of the Indian Penal Code.

Whoever makes a statement in any petition presented under Section 25, which is false, and which he either knows or believes to be false or does not believe to be true, shall be deemed to have intentionally given false evidence in a stage of a judicial proceeding.

Prosecution to be at instance of Collector.

33. No person shall be proceeded against for any offence under Section 30, 31, or 32, except at the instance of the Collector.

Mode of recovering fines.

34. All fines imposed under this Act may be recovered, if for offences committed outside the local limits of the towns of Calcutta, Madras, or Bombay, in the manner prescribed by the Code of Criminal Procedure, and, if for offences committed within those limits, in the manner prescribed by any Act regulating the Police of such towns in force for the time being.

In the case of a firm, the Magistrate imposing the fine may issue a warrant for the levy of the amount by distress and sale of any moveable property belonging to the firm or to all or any of the members thereof.

Sections 193 and 228 of Penal Code to apply to proceedings under this Act.

35. In Sections 193 and 228 of the Indian Penal Code, the words "judicial proceeding" shall be taken to include any proceeding under this Act.

PART VI.

Payment.

Tax when payable.

36. All taxes under this Act, except when they are deducted under Section 8 or 9, shall be payable on the 5th day of April 1870.

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Instalments.

Provided that the amount so payable may be paid by four equal instalments: the first instalment to be paid on some day not later than fifteen days after service of the notice mentioned in Section 22 upon the person paying the same, and the second instalment on the 1st day of July, the third instalment on the 1st day of October, and the fourth instalment on the 1st day of January 1871.

Payment by instalments.

37. When any person pays only such first instalment, or first and second instalments, or first, second, and third instalments, and in any of the quarters respectively ending on the 30th day of June, the 30th day of September, or the 31st day of December, dies, or is, by sickness or other infirmity, rendered incapable of exercising the profession or trade (if any) in respect of the profit arising from which he was assessed, or takes the benefit of any Act for the relief of Insolvent Debtors, or conveys the whole of his property in trust for the benefit of his creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Death or insolvency of person paying instalment.

When any firm pays only such first instalment, or first and second instalments, or first, second, and third instalments, and in any of the quarters respectively ending on the days last aforesaid dissolves partnership, or takes the benefit of any Act for the relief of Insolvent Debtors, or conveys the whole of its property in trust for the benefit of its creditors, the amount of the subsequent instalments or instalment shall not be claimable.

Firm paying instalment and dissolving partnership or becoming insolvent.

38. If the Collector has caused a notice to be served on any person liable to pay the said second or any subsequent instalment and requiring him, within seven days from the date of the service, to pay the amount of such instalment (mentioning it), and if the person so served does not, within that period, pay such amount as required by the said notice, he shall, on conviction before a Magistrate, be fined twice the amount so mentioned.

Recovery of subsequent instalment.

Recovery under Revenue Law.

39. In any case of default under this Act arising outside the local limits of the towns of Calcutta, Madras, or Bombay, the Collector may, if he thinks fit, and if the notice mentioned in Section 22, 29, or 38 (as the case may be), has been served on the defaulter, recover the amount of any tax or instalment payable under this Act as if it were an arrear of land revenue.

Optional recovery under Revenue law.

On the recovery of such amount from the defaulter, the Collector shall grant him a receipt without any further payment.

Every such receipt shall bear date from the recovery of the amount, and, save as aforesaid, the provisions of this Act relating to receipts shall apply to receipts granted under this section.

Payment of Taxes and Fines.

40. All taxes levied, and all fines recovered, under this Act shall be paid to the credit of the Government of India, or as such Government shall from time to time direct.

Payment of taxes levied and fines recovered under this Act.

PART VII.

Miscellaneous.

41. All or any of the powers and duties conferred and imposed by this Act on a Collector and on a Commissioner of Revenue may be exercised and performed by such other officers or persons as the local Government shall from time to time appoint in this behalf.

Powers of Collector and Commissioner under this Act may be exercised by other officers.

42. Service of any notice under this Act shall be made by delivering or tendering a copy thereof under the signature of the Collector.

Service of notices.

Whenever it may be practicable, the service of the notice shall be on the person therein named, or, in the case of a firm, on some member thereof.

When such person or member cannot be found, the service may be made on any adult male member of his family residing with him; and, if no such adult male member can be found, the serving officer shall fix the copy of the notice on the outer door of the house in which the person or firm therein named ordinarily dwells or carries on business.

43. Where any Company or firm has several places of business in the territories subject to different local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be the principal place of business, and, when any Company has several Agents or Managers, which of them shall, for the purposes of this Act, be deemed to be the principal Agent or Manager.

Power to declare principal place of business.

When any Company or firm has several places of business in the territories subject to a single local Government, such Government shall have power to declare which of them shall, for the purposes of this Act, be deemed to be the principal place of business.

When any person has several places of residence in the territories subject to different local Governments, the Governor-General of India in Council shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence, and, when any person has several places of residence in the territories subject to a single local Government, such Government shall have power to declare which of such places shall, for the purposes of this Act, be deemed to be his residence.

Power to declare residence.

The powers given by this section may be delegated to, and exercised by, such officers as the Governor-General of India in Council or the local Government, as the case may be, shall from time to time appoint in this behalf.

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Governor-General in Council empowered to prescribe forms.

44. The Governor-General of India in Council may, from time to time, prescribe forms for the returns, notices, and lists hereinbefore mentioned.

All such forms shall be published in the *Gazette of India.*

Governor-General in Council empowered to make rules.

45. The Governor-General of India in Council may, from time to time, make rules consistent with this Act for the guidance of officers in matters connected with its enforcement, and may delegate to any local Government the powers given by this section so far as regards the territories subject to such Government.

SCHEDULE I.

Persons whose annual income or profits shall be assessed at not less than	Rs.	500	but at less than	Rs.	750	shall pay Rs. 19 8 0
Do. do. do. ...	"	750	do.	"	1,000	do. " 27 0 0
Do. do. do. ...	"	1,000	do.	"	1,500	do. " 39 0 0
Do. do. do. ...	"	1,500	do.	"	2,000	do. " 54 0 0
Do. do. do. ...	"	2,000	...	...	...	... 6 Pies in the Rupee.

SCHEDULE II.

Form of Petition under Section 25.

Stamp 8 Annas.

To the Collector of

The *day of* 187 .

The petition of *A. B.*, of

Showeth,

1*st.*—That, under the Indian Income Tax Act, your petitioner has been assessed in the sum of 27 Rupees for the year commencing the 1st day of April 187 .

2*nd.*—That your petitioner's income and profits accruing and arising from [*here specify petitioner's trade or other source or sources of income or profits, and the place or places at which such income or profits accrues or arise*] for the year ending the 31st day of March last were Rupees as will appear from the documents marked presented herewith, and to which your petitioner craves leave to refer.

3*rd.*—That your petitioner has no other source of income or profits, and has no reason to believe that his income and profits during the year commencing the 1st day of April 187 will exceed the said sum of Rupees

Your petitioner, therefore, prays that he may be assessed accordingly, and that the value of the fee on this petition may be refunded [*or* that he may be declared not to be chargeable under the said Act, and that the value of the fee on this petition may be refunded.]

(Signed) *A. B.*

Form of Verification.

I, *A. B.*, the petitioner named in the above petition, do declare that what is stated therein is true to the best of my information and belief.

(Signed) *A. B.*

SCHEDULE III.

Enactments repealed.

Number and year.	Title of Act.	Extent of repeal.
Act No. IX. of 1869.	The Indian Income Tax.	The whole.
Act No. XXIII. of 1869.	An Act to enhance the duties leviable under the Indian Income Tax Act.	Do.
Act No. VII. of 1870.	The Court Fees' Act.	In Section 32 the words "and the Indian Income Tax Act, Section 20, shall be read as if for the words 'the value of the said stamp' the words 'the fee on the petition' were substituted." In the second schedule, No. 9, the words "Section 21."

(Signed) WHITLEY STOKES,

Secy. to the Council of the Govr.-Genl. for making Laws and Regulations.

Re-published by order of His Excellency the Governor in Council.

(Signed) R. S. ELLIS,

Chief Secretary.

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